

THE BULLETIN

UNIVERSITY OF TORONTO

JANUARY 28, 2002 • 55TH YEAR • NUMBER 11

No Deregulation for Arts and Sciences

By Susan Bloch-Nevitte

QUEEN'S UNIVERSITY'S REQUEST to deregulate tuition fees for arts and science programs got thumbs down last week from the provincial government, but U of T president Robert Birgeneau says that doesn't prevent the province from upping its grant to universities.

"Tuition fees have been capped below inflation for several years," he said. "When the required minimum of 30 per cent of new tuition revenues is set aside for student financial assistance, the university is left with a 1.4 per cent net increase. When the combination of a provincial grant with no inflationary increase whatsoever and tuition fee increases regulated at two per cent is matched against a minimum four to six per cent rise in annual costs, it is easy to see that our resources are being seriously eroded."

Ontario's public university system has two main sources of support: government grants and student fees. In Birgeneau's view, the fundamental problem remains that grants and regulated fees no longer cover the costs for a university that intends to rank with the world's top public research universities.

While U of T has received increased grants to help cope with the double cohort, Birgeneau said

they do not address rising costs, "and there is no provision at all for inflation. We'll need the grant provided for the first 1,000 double cohort students just to keep the lights on."

"Students expect value for the money they spend on their education," Birgeneau added. "On their behalf we make no apologies for our aspiration to be one of the great public universities in the world and there's no reason why a public university in Ontario should accept less than the best or resign itself to a lesser rank among its peers."

Four years ago the province deregulated tuition fees for a number of professional programs, letting universities determine their own fee levels. Most undergraduate programs — primarily in the arts and sciences — remained regulated, currently with an annual two per cent cap on increases.

Queen's proposed that its arts and science program be deregulated and in return for a 10 per cent tuition hike it would match the government's required allocation of 30 per cent of new revenues for financial aid. The government responded late last week that it was not prepared to make any changes to the regulated system at this time.

U of T's undergraduate student

- SEE NO PAGE 6 -

U of T Student Wins Rhodes Scholarship

By Lanna Crucefix

IT TAKES SOME EFFORT TO SILENCE a debater. So when Vivek Krishnamurthy was left speechless by a phone call last month, it had to be very big news indeed.

The fourth-year Innis College student had just been informed that he was one of 11 Canadian students to win a 2002 Rhodes scholarship to the University of

- SEE STUDENT PAGE 6 -



Vivek Krishnamurthy

REMEMBERING AN ARTIST



JEWEL RANDOLPH

Karyn Sandlos, the niece of former fine art lecturer David Buller, lays a card next to a memorial bouquet on the anniversary of his death. Buller, a senior lecturer at U of T since 1985, was found dead in his studio at 1 Spadina Cres. last January. Police are still investigating.

More Government Funds Needed to Meet Demands of Double Cohort

By Janet Wong

U OF T HAS A CHALLENGE ON ITS doorstep — how to deal with thousands of additional students without capital funding commitments from the province.

Ontario universities are predicting an enrolment surge of some 58,000 additional students by 2004-05. The increase is being fuelled by three factors — the double cohort (the elimination of Grade 13 causing two high school classes to graduate in the same year), additional pressure from a demographic bulge as the children of the baby boomers make their way through the system and a growing participation rate as more high school students want to attend university. The first wave of students arrives this fall.

"We knew this surge was coming and all universities worked with the Ontario government to increase first-year student intake in response to the projected demand," said Professor Sheldon Levy, vice-president (government and institutional relations).

U of T agreed — subject to adequate capital and operating support — to increase full-time undergraduate enrolments to 47,700 by 2005-06 from 38,304 in 1998-99. The plan, Levy added, was based on early province-wide estimates of

demand; all indications now point to a greater demand, especially at U of T.

Queen's Park has agreed to provide full operating funds to handle student increases. However, while the province's SuperBuild Growth Fund will provide U of T with funds for buildings to accommodate some 2,500 extra students, about twice that number will be enrolling here over the next few years, Levy said.

"To date we have not received the funding for all the classrooms, labs and offices we need in order to handle the initial enrolment plan, let alone deal with even larger numbers," Levy said. And the problem becomes more urgent when the university factors in the space that will be needed for greater numbers of graduate and second-entry students.

Meanwhile, recruiters are fielding questions of growing concern by parents and students, said Florence Silver, director of student recruitment. "At information sessions and at high schools across the Greater Toronto Area, parents are very worried about the educational future of their children," she said. "They're asking questions on everything from how the university plans to expand its buildings to the availability of financial aid and housing."

Levy said the university will

maintain its financial aid guarantee that ensures financial support to any needy student who is offered admission as well as its housing guarantee for all first-year students who request it. "Universities will have to become a higher priority with the government," said Levy. "We will do our share, but we can't do it all."

The Mississauga (UTM) and Scarborough campuses will be taking the bulk of new students — about two-thirds in all. According to Principal Robert McNutt of UTM, a new student residence and academic building (the Centre for Culture and Information Technology) are being erected to meet part of the expected increase. "However," he said, "the campus will require new science and library buildings to handle the thousands above students we're expecting, above and beyond initial forecasts."

INSIDE



Dowry with a difference
"Conservatories" in Renaissance Italy made it possible for orphan girls to marry. Page 7

IN BRIEF



U OF T EYES SCHOOL BOARD BUILDING

U OF T'S GOVERNING COUNCIL WILL CONSIDER BUYING THE TORONTO DISTRICT School Board's administrative building on College Street at its next meeting Feb. 14. At a contentious meeting last week, Toronto school board trustees voted to sell their downtown headquarters at 155 College St. to U of T. Professor Sheldon Levy, vice-president (government and institutional relations), said the building is in an ideal location for expansion in the Faculty of Nursing where enrolments will be increasing over the next few years in an effort to alleviate nursing shortages in Ontario. "It's in a strategically important area for the university's growth, right near the heart of the St. George campus," he said. Details of the sale are confidential until the purchase receives Governing Council approval. Academic Board approved the purchase at its Jan. 24 meeting.

CASE GOES TO HUMAN RIGHTS COMMISSION

THE ONTARIO HUMAN RIGHTS COMMISSION IS HEARING A COMPLAINT BY A former instructor in the Department of Middle East and Islamic Studies (now Near and Middle Eastern civilizations) who says he was denied positions at U of T because of his religion. The hearing, before a three-person board of inquiry, is expected to wrap up by late June. Todd Lawson is arguing the university discriminated against him on the grounds of his Baha'i faith. "While the hearing is under way, it would be inappropriate for us to discuss the case beyond noting that we conducted an investigation into this matter and we are confident there was no misconduct," said Dean Carl Amrhein of the Faculty of Arts and Science. "We are satisfied that his religious beliefs were not a factor in the university's hiring decisions."

STAFF GRANTED LEAVE FOR DAY OF ACTION

FOLLOWING A REQUEST BY U OF T EMPLOYEE UNIONS, PROFESSOR ANGELA Hildyard, vice-president (human resources), has agreed to permit time off work for staff wishing to participate in the national student day of action planned for Feb. 6, 2002. "I recommend that at the supervisor's discretion, staff be permitted limited time off during the day, without pay, to participate in the activities, where such limited time off does not interfere with the maintenance of service," said Hildyard in a memo to all principals, deans, academic directors and chairs. Hildyard emphasized that this does not mean an endorsement of the campaign or its many goals but does reaffirm U of T's commitment to strong public funding of higher education in Canada.

UNIVERSITY CLOSES CASE ON SHANK

THE UNIVERSITY WILL NOT PURSUE FURTHER ACTION AGAINST ROXANNE SHANK, the law student who appealed a one-year suspension for allegedly misrepresenting her grades. Shank was one of 34 students investigated by the Faculty of Law last spring, of which 17 were sanctioned for misrepresenting their grades. Earlier this month, the Ontario Superior Court of Justice (Divisional Court) upheld the university's right to discipline students for misrepresenting their academic results to third parties. Although the court's decision did not state conclusively whether Shank had actually committed the offence, it did conclude that she had not explicitly admitted to it and set aside the original sanction. U of T feels the matter is now closed, said Vice-Provost Vivek Goel. "This has been a long and protracted case, one that has been very difficult for Ms. Shank," Goel said. "It's time to move on."

Six Named to Order of Canada

By Ailsa Ferguson

U OF T'S MASTER OF MASSEY College and a retired professor committed to the promotion and preservation of the canoe as a symbol of Canadiana are among the six prominent members of the university community to be appointed to the Order of Canada, this country's highest honour for lifetime achievement.

Named officer of the Order of Canada, the order's second highest rank, were Professor Bernard Langer, chair of surgery, University Professor David MacLennan of the Banting and Best Department of Medical Research and Professor Emeritus Philip Seeman of pharmacology. John Fraser, master of Massey College, Professor Anthony Graham of the Department of Medicine and Professor Emeritus Kirk Wipper of the Faculty of Physical Education and Health were appointed members of the order. In all, 96 new appointments were announced Jan. 14 by Governor General Adrienne Clarkson.

As head of general surgery at Toronto General Hospital, Langer established one of Canada's premier multi-organ transplant centres. As well he created U of T's surgical-scientist program, an internationally emulated training model designed to combine clinical and research training at the

highest level. "His leadership in national and international surgical and scientific organizations and the presidency of the Royal College of Physicians and Surgeons of Canada," the citation states, "are a testament to the esteem in which he is held by his colleagues at home and abroad."

MacLennan, principal investigator at the Canadian Genetic Diseases Network, has earned an international reputation for his work on genetics and the regulation of calcium in muscle. The recipient of numerous prestigious awards, MacLennan is a fellow of the Royal Society of London and a foreign associate of the U.S. National Academy of Sciences.

Seeman is known internationally for his research on dopamine receptors and their involvement in diseases such as schizophrenia, Parkinson's and Huntington's. A former member of the board of directors of the Ontario Mental Health Foundation, he continues to serve on many editorial and advisory boards.

Fraser, cited as having "made his mark on our country's fourth estate," has worked for several Canadian newspapers, including *The Globe and Mail*, and was editor of *Saturday Night* for several years. A respected writer, he is author of the best-seller *The Chinese: Portrait of a People* and most recently *Eminent Canadians: Candid Tales of*

Then and Now. Currently master of Massey, "he is always willing to serve his profession and his community and has been a dedicated volunteer on behalf of numerous organizations."

Director of ambulatory care of the heart and vascular program at St. Michael's Hospital, Graham has contributed significantly to the reduction of cardiovascular death rates across the country. He initiated the Emergency Cardiac Care systems in Canada and created the first cardiopulmonary resuscitation (CPR) training program in Ontario. As well he played a key role in the successful evolution of the Ontario Heart and Stroke Foundation, transforming it into one of the most successful in North America.

Wipper is passionate about promoting and preserving the canoe as a symbol of Canadiana. Over a 45-year period he collected more than 500 canoes and kayaks which now form the greater part of the exhibits at the Canadian Canoe Museum in Peterborough. Cited for his contributions to U of T and to conservation, Wipper is "known as a man of vision and determination, [who] has helped, in his many endeavours, to bring alive the history and culture of our nation."

Roseann Runte, former president of Victoria University, was also appointed to the Order of Canada as a member.

Franklin Receives Pearson Peace Medal

UNIVERSITY PROFESSOR EMERITUS Ursula Franklin of materials science and engineering has received the Pearson Peace Medal from the United Nations Association in Canada in recognition of her contributions to humanitarian causes championed by former Prime Minister Lester B. Pearson.

By her direct actions, "she has changed the thinking, the assumptions, the direction of the lives of those who have welcomed her clarity, honesty ... and her constant search for truth," wrote her nominator for the award.

Franklin's activism has included serving as part of a group that campaigned against the bombing of Kosovo by NATO warplanes. She also played a central role in the creation of an innovative program in cross-cultural under-



standing and conflict resolution at the Toronto high school named in her honour.

"In the post-Sept. 11 world, it is doubly important to explore the means of peace and co-operation because in the face of violence, one forgets so easily the solutions

of big problems that were achieved without war, such as South Africa," said Franklin, a world-renowned expert in the study of ancient materials. "And I was very thankful that a former recipient of that same medal — Archbishop Edward Scott — was in the audience so that I could, in his presence, point out how a concerted moral effort against something as evil as apartheid could change the government of a very large country without war."

Franklin came to Canada in 1949 after completing her PhD in experimental physics at the Technical University of Berlin. In 1967 she became the first woman appointed to U of T's Department of Metallurgy and Materials Science and the first to be appointed University Professor, U of T's highest academic rank.

Bond Awarded Dannie Heineman Prize

UNIVERSITY PROFESSOR RICHARD Bond of astrophysics has been named 2002 recipient of the prestigious Dannie Heineman Prize for Astrophysics in recognition of his pioneering work on the cosmic microwave background and the evolution of the universe.

In winning the award Bond, director of the Canadian Institute of Theoretical Astrophysics, joins a highly select group of internationally recognized astrophysicists and astronomers. Former University Professor Scott Tremaine, one of the world's leading theoretical

astrophysicists, now at Stanford University, won the prize in 1997.

"The thing that's really great about this is the people that I'm joining," Bond said. "The list is really quite exceptional so to be numbered in that crew is a very positive thing. And it's not just theorists, it's observers as well, so it's a nice stamp of approval from the community."

Established in 1979 by the Heineman Foundation, the prize recognizes outstanding work in the discipline and is administered jointly by the American Institute of

Physics and the American Astronomical Society.



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TAs Ratify Multi-Year Contract

By Jane Stirling

MEMBERS OF THE UNION REPRESENTING the university's 2,500 teaching assistants have ratified a multi-year agreement with an average two per cent wage increase over the term of the contract.

The TAs, members of the Canadian Union of Public Employees (CUPE), Local 3902, ratified the deal over a three-day voting period last week. Eighty-three per cent of the 730 votes cast were in favour of the contract.

"I am delighted the TAs have ratified the agreement," said Professor Angela Hildyard, vice-president (human resources). "This contract provides long-term stability for the teaching assistants and for the university."

Michael Swayze, the union's staff representative, said members "wrestled with" the issue of a three-year, eight-month contract. "A contract of this length is unprecedented for this unit and unusual for CUPE," he said. "But

the bargaining committee felt if we got certain things in the agreement — for instance, improvements to the dental plan and the creation of a financial assistance fund — we'd accept a longer-term contract. We got what we needed and the university got what they needed and that's what makes a good agreement."

The deal, which expires April 30, 2005, provides for an increase of 2.25 per cent effective Feb. 1, 2002, followed by 2.25 per cent in September, 1.75 per cent a year later and 1.5 per cent in September 2004 as well as a lump sum payment of \$75 per person.

A financial assistance fund of \$225,000 a year will be established to provide financial assistance to TAs. Under the agreement the union will develop criteria, which must be discussed at the labour-management committee, to determine the basis for granting financial assistance.

Under the agreement, the university will cap the number of TA hours a department can count in calculating a graduate student's

total funding support. The contract also includes a substantial increase — from \$110,000 to \$300,000 — in the fund for the dental rebate plan as well as an increase in the amount of individual rebates.

- Other items in the agreement:
- amendments to the list of duties TAs perform to include designing Web sites and responding to e-mail enquiries from students, when these are duties assigned by the supervisor;
 - improvements to leaves of absence including increased bereavement leave for up to five days without loss of pay and the introduction of compassionate leave; and
 - simplified hiring criteria.

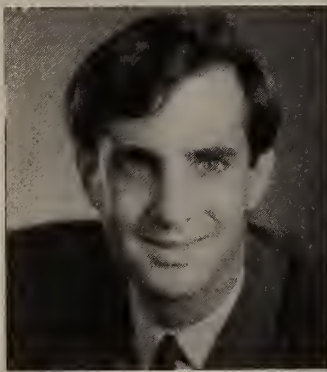
In other labour news, the university and members of CUPE, Local 3907, which represents 182 graduate assistants at OISE/UT will meet with a conciliator in February. The contract for members of CUPE 3907 expired Aug. 30, 2001, and talks between the university and union ended in December, 2001.

Law Faculty Raises the Bar

By Sue Toye

THE FACULTY OF LAW HAS unveiled a five-year plan to change the way it delivers legal education to its students.

The draft report, released internally last week, outlines a plan to increase the faculty's annual base budget by 40 per cent, including \$1.35 million for student services and programs and \$1.7 million each for student financial aid and for faculty recruitment and retention.



Dean of law, Ron Daniels

To achieve this goal, the task force recommends increasing tuition fees by \$2,000 per year for the next five years, ultimately reaching \$22,000 by 2007. Current students will be exempt — their fees will increase by no more than five per cent per year. The proposal to raise fees is also based on the assumption that the university will permit the faculty to retain 90 per cent of the net tuition hike after investing in financial aid.

"We seek to justify these tuition hikes by demonstrating to students how investment in the future of this program will attract and retain outstanding students and faculty and provide them with a program that is second to none in the world," said Dean

Ron Daniels, who chaired the task force.

But for Mary Khazanov, a second-year law student, the hike is more about dollars than sense. "It makes it less affordable for students coming to U of T," she said. "It adds pressure for students interested in pursuing public interest law to go the corporate route instead."

At \$12,000 per year, the Faculty of Law's tuition fees are the highest in Canada but still pale in comparison to its public and private peer institutions in the U.S. including Harvard (\$27,000 US), Yale (\$29,800) and Chicago (\$27,000).

"Increasingly we are operating in a global society and in order to attract the best, we must have a program that meets the highest standards of international excellence," Daniels added.

To combat steep hikes in tuition fees, the law school has significantly increased its commitment to student aid — from \$101,780 in 1995 to \$1.7 million this year and \$3.6 million in 2007. "This assistance ensures that every student, irrespective of their wherewithal, can attend and fully participate in our programs," Daniels said, emphasizing that all financial aid is need-based. The faculty also provides debt relief of about \$500,00 annually to students entering lower paying "public interest" careers.

The faculty has felt the squeeze of government cutbacks over the last six years: there are fewer professors despite larger classes; its international human rights program could only support a handful of foreign students; and there was no career placement program in place to assist graduates.

The draft report also calls for a

faculty-to-student ratio of nine to one, making it one of the lowest ratios in North America. As well it recommends creating new international student exchanges and expanding the complement of international and visiting faculty.

"We believe that we have an important role to play in training tomorrow's leaders of the legal profession and this program will substantiate that goal," said Daniels. "Canada needs outstanding law faculties that are focused on responding to Canadian legal problems and what we're doing here is bringing the very best minds to service that goal."

UAB approves Varsity Centre budget

By Michah Rynor

THE UNIVERSITY AFFAIRS BOARD passed a motion at its meeting Jan. 23 approving in principle the operating plans and budget for the proposed Varsity Centre. The board's approval has enabled a mail-in referendum (likely in March) asking students to agree to a compulsory, non-academic incidental fee to help cover the costs of the project.

The new sports and recreation complex is part of a comprehensive redevelopment plan for the Bloor-Devonshire area that will include student residences, commercial and institutional space and a possible underground garage. The sports centre will replace the existing Varsity Arena and Stadium that has been described as "aging, decaying and decrepit."

If students vote in favour of the fee increase, it will result in a special Varsity Centre levy of \$25 per full-time student at the St. George campus and \$7.50 per part-time

student in each of the next two years. Beginning in 2005-2006, the levy will increase to \$70 per full-time and \$21 per part-time St. George student, increasing annually by three per cent for 25 years or until the money borrowed has been repaid. Students at the Mississauga and Scarborough campuses are exempt. The levy is expected to raise \$29.2 million.

In a report distributed at the meeting, David Melville, a member of Governing Council, the Association of Part-time Undergraduate Students (APUS) and the Council on Student Services (COSS), argued that the referendum should not proceed because both APUS and the Graduate Students' Union voted against the levy and opposed the referendum at a recent COSS meeting. Both groups say they don't believe student ancillary fees should go to capital projects. Melville argued that the money used for a referendum would be better spent on lobbying strategies

to encourage governments to restore and enhance public funding of capital costs.

"I find it curious that student leaders who are concerned about student consultation should object to proceeding to the ultimate form of consultation which is a referendum," said Andrew Lefoley, a student at Woodsworth College and a former board member of the Students' Administrative Council. "As for the costs of the referendum, those could have been avoided had either GSU or APUS agreed to online voting," he said. "It is disingenuous at best for them now to object to the cost of the mail-out ballot."

Another report, prepared by campus and facilities planning, argued that the project must go ahead with student participation because of the benefits it will bring including services that are welcoming inclusive, and "which will serve the needs of future generations of users."

CURIOSITIES



KEN JONES

PRICKLY PAIR

By Michah Rynor

EXPO 67, THE WORLD EXPOSITION CELEBRATING CANADA'S CENTENNIAL birthday, was the site of one of the most revolutionary art exhibits in the nation's history and this towering steel sculpture, *A Tall Couple*, by artist Louis Archambault (born in Montreal, 1915) was a bona fide crowd pleaser.

A Tall Couple is an example of assemblage sculpture, which means it's made up of different forms and elements in order to form an arresting and interesting whole. This piece was commissioned by the House of Seagram liquor company and it not only stood guard over Expo but stayed an extra year at the Man and His World exhibit that followed. The sculpture was donated to the University of Toronto at Scarborough, where it now resides, by Seagram in 1969.

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2002

Sunday 20 January at 3 p.m.
**Out of the frying pan and
into the car: Biodiesel**

David G. B. Boocock
Department of Chemical
Engineering & Applied
Chemistry U of T

Sunday 27 January at 3 p.m.
**How orangutans
see the world**

Anne E. Russon
Department of Psychology,
York University www.yorku.ca/arussos

Sunday 3 February at 3 p.m.
**Extrasolar
planetary systems**

Sara Seager
Institute for Advanced Study,
School of Natural Sciences,
Princeton NJ

Sunday 10 February at 3 p.m.
**From meteorites to megacities:
Ontario's geological past**

Nick Eyles
Department of Geology,
University of Toronto

Sunday 17 February at 3 p.m.
**Sex with six legs:
How bugs get it on**

Kenneth G. Davey
Prof. Emeritus,
Department of Biology, York University;
President, Royal Canadian Institute

Sunday 24 February at 3 p.m.
**Earth's changing climate:
Certainties and
uncertainties**

Henry N. Pollack
Department of Geological
Sciences, University of Michigan
<http://www.geo.lsa.umich.edu/~hpollack>

Sunday 3 March at 3 p.m.
**What do animals
learn about sex?**

James G. Pfau
Centre for Studies in
Behavioural Neurobiology, Department of
Psychology, Concordia University, Montreal

Sunday 10 March at 3 p.m.
**Science Circus — especially for kids ages 7-12
Let's Talk Science with U of T students**

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Hart House This Week

7 Hart House Circle • www.utoronto.ca/harthouse

SPECIAL EVENTS Call 416 978-2452

ELECTIONS! Do you want to help run your student centre? It's simple. Put your name forward to become a member of our Art, Debates, Farm, Finance, House, Literary & Library, Music, Recreational Athletics or Theatre Committees. You can and will make a difference, and we need you! Nominations open January 21 and close Feb. 8. Elections February 12 & 13. Information: 416 978-8400.

INTERNATIONAL DAY FIVE BUCK LUNCH - Wednesday, February 6th 11:30 a.m. to 2 p.m. - Great Hall
Graduate Committee's Wednesday Dinner Series - February 6 Prof. Martin Friedland, author of "The History of the University of Toronto - Hart House and Beyond". 6pm reception for 6:30pm dinner. Various ticket packages available. Single ticket for Hart House members \$45. U of T students \$25. Register early. Call 416 978-8397 for details and tickets.

ART Call 416 978-8398

Arbor Room - Jen Herbert "Art of the Obvious" Runs Jan. 7 to Feb. 9
Art Panel Discussion - "Art and Atrocity". Tue. Jan. 29 at 5:30pm in the Music Room.

LITERARY and LIBRARY Call 416 946-7323

Enter our **Second Annual Hart House Poetry Contest**. Submission deadlines for poems or a group of poems of 250 lines or less is February 11th. Entry forms and complete rules are available in the display across from the Warden's office. Call 416 946-7323.

MUSIC Call 416 978-5362 - All concerts are free!

Jazz at Oscar's - Fri February 1st - Ron Davis Trio from 8:30-11pm in the Arbor Room. Licensed. No cover.

CLUBS & COMMITTEES - Call 416 978-2452

Bridge - Thursdays at 6:30pm - Instruction on Tuesdays at 6:30 pm - Duplicate Bridge.
Chorus - Fundraising Concert. Sunday February 3rd, 3 pm. Eastminster United Church. Tickets available at Hall Porters Desk \$10 Students/\$15 Adults
Drama - 5th Annual One-Act Playwriting Competition - Deadline Fri. Mar. 1. Rules available at the Hall Porters' Desk. 416 978-2452.
Film Board - Film Board Open Screening - Thursday January 31, 7 pm in the Music Room. Free. Submit films to the Hall Porters' desk by January 29, 5 pm.

ATHLETICS - Call 416 978-2447 www.utoronto.ca/harthouse

The 9th Annual Indoor Triathlon will be held on Saturday February 9th. For more information call 978-2447. Fee is \$30, Relay teams \$36. Deadline to register is Friday January 26th.

THEATRE

The Music Man - UC Follies presents Meredith Willson's popular musical. January 31 to February 9, Thursday to Saturday 8 pm with 2 pm matinee on Saturday in Hart House Theatre. Tickets \$15/\$10 students & seniors. (\$12/\$8 with GET STAGED PASS).

HART HOUSE
UNIVERSITY OF TORONTO

Student Wins Rhodes Scholarship

- CONTINUED FROM PAGE 1 -

Oxford.

Despite his credentials, Krishnamurthy didn't think of applying for the scholarship until encouraged by Professor Stephen Clarkson of political science. "Vivek's very bright and accomplished. He's mature in his judgment and skilled in his writing, a very quick mind and very very capable," Clarkson said.

Krishnamurthy is actively involved in the Hart House debating club and has helped to arrange formal debates by eminent Canadians. He sits on the Hart House board of stewards and is editor-in-chief of the *Attaché*, the Trinity College international affairs journal. He also plays the violin, piano, flute and oboe.

Jillian Welch, provisional secretary for Ontario of the Rhodes Scholarship Trust, pointed to his character as a deciding factor. "I

think everybody on the committee would agree that what really wowed us about Vivek was his sheer energy and enthusiasm for what he wants to do," she said. "That enthusiasm is rare and from the committee's perspective was something that was so good to see."

An undergraduate in the specialist program in economics and political science, Krishnamurthy plans to follow the same academic

future. "I enjoy studying and analysis, but on the other hand I like to get my hands dirty and get in the thick of things," he said. "I prefer being constructive rather than criticizing from the outside, to get inside and do things and shake things up."

Although he is looking forward to the academic challenges of Oxford, Krishnamurthy admitted that he experienced a delayed reaction to the news at first.

"It was a feeling of excitement and great joy. I really felt honoured once it sank in. But it took a while just to realize that, Oh my god, I'm headed to Oxford next year."

The Rhodes scholarship provides for all travel and tuition expenses for two years, with an option for a third year. Scholars are selected on the basis of academic achievement, outstanding character and diversity of extracurricular activities and interests.

"I prefer being constructive rather than criticizing from the outside, to get inside and do things and shake things up"

path at Oxford where he will work towards a master's degree in international relations. He is particularly fascinated by the issues surrounding globalization and is considering working for an international institution in the

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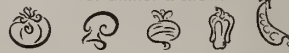
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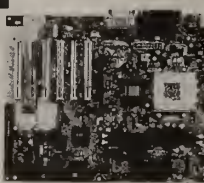
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IN THE NEWS



ROTMAN RANKS IN TOP 10: FINANCIAL TIMES

THE MBA PROGRAM AT THE JOSEPH L. ROTMAN SCHOOL OF MANAGEMENT was fourth in the world in the annual *Financial Times* survey of business schools in the category of "value for money." The school also ranked eighth overall among business schools at public universities and 31st out of 100 top public and private business schools worldwide, a 15-point jump from last year. Dean Roger Martin credited the good showing in part to the continued growth of the school's programs and the hiring of innovative new professors over the past three years.

LENSKYJ "KICKS ASS"

NOW MAGAZINE HAS NAMED PROFESSOR HELEN LENSKYJ OF OISE/UT ONE of their "Angels who kick ass." In its Jan. 10-16 edition, the magazine featured nine "batling souls who challenge, disturb and inspire." The sociologist is well known for her book *Inside the Olympic Industry: Power, Politics and Activism* and for her role in the fight to oppose both of Toronto's recent Olympic bids. She noted that one of the difficult aspects of the bid struggle was that, "it was pretty tough countering all the myth-making [by the bid's PR people]."

SUPERCOMPUTERS

INNOVATIVE RESEARCH BY PROFESSOR ZHENGHONG LU OF MATERIALS SCIENCE and engineering was featured Jan. 15 by United Press International. Lu and his team have been working with "quantum wells." These thin layers of crystalline silicon — only nanometres thick — may be invaluable to the development of future inventions. "When talking about nano-electronics, you can in theory get really fast, ultrafast computers — handheld supercomputers," he said.

Clinicians' Task Force Set

U OF T HAS CREATED A TASK FORCE to explore the changing relationship with its clinical faculty members. Although most are not directly paid by the university, some 3,000 clinical appointees are involved in the education of more than 800 undergraduate medical students, 1,800 post-graduate clinical trainees and hundreds of graduate students.

Relationships between U of T, its teaching hospitals and the clinical faculty have remained essentially unchanged for several decades, said Provost Adel Sedra, "yet the working environment for clinical faculty has changed considerably and increased in complexity."

The 11-member task force will be co-chaired by Professor Vivek Goel, vice-provost (faculty), and Professor David Naylor, dean of medicine and vice-provost (relations with healthcare institutions). Task force members include clinical and tenured faculty as well as representatives from the hospitals.

"The relationship of the clinical faculty with the university is fundamentally different from that of other tenure-stream faculty," said Sedra. "Clinical faculty do not work directly for the university — they are self-employed professionals who voluntarily pool their earnings from clinical practice, through practice plans." The plans then redistribute the earnings as income to the clinicians and help to support the academic missions of the teaching hospitals and the university.

Clinical faculty are governed by a complex set of policies including those of the university, the affiliated hospitals and the affiliation

agreements between the university and each hospital. Further complicating matters, they are also accountable to the medical advisory committee and clinical leadership of their respective hospitals.

Revisions to one hospital's funding agreement for clinicians sparked a grievance by the U of T Faculty Association, which maintains that the university has a compelling interest in protecting academic freedom of the clinicians. UTFA's action sparked scores of letters and e-mails from clinicians who argued that they are satisfied with their financial agreements and don't require intervention by the staff association.

Sedra notes that the university places high priority on ensuring that clinical faculty members enjoy protection of their academic freedom, matched to their responsibilities. He says that while the UTFA actions have served to highlight the attention that the task force must pay to this issue, the grievance has alienated both clinicians and teaching hospitals.

Professor Rhonda Love, president of UTFA, said that in her view, any changes in policies and procedures would "ultimately require UTFA's approval if they are to have any legal effect. UTFA has the legal responsibility to protect the rights of clinical faculty under the Memorandum of Agreement," she said.

The task force will develop a draft set of policies to govern appointments of clinical faculty, seeking their views on how the relationship with U of T should be governed and how they should be represented within the university.

CROONING CONSTABLES

Singing cop passes torch to next generation



DANIEL DUTKA

Constable Veronica Amodeo of the University of Toronto Police

By Lanna Crucefix

IF YOU WERE ON A SCAVENGER HUNT IN TORONTO AND had to find a doctor who golfs or a vegetarian at a Greenpeace meeting, it wouldn't pose much of a problem. But what if the list asked for police who sing?

As it turns out, they are quite close to home. Constable Veronica Amodeo and retired Constable John Wilson of the University of Toronto Police can be found singing the national anthem around the city at U of T Varsity events. Wilson hit on the idea to sing at Varsity games about three years ago. "I was at a game one day and they had technical problems with the recorder. I thought, Why doesn't someone sing?" Wilson was soon opening football games, and later Toronto Lynx soccer matches.

The former U of T constable is enthusiastic about the positive effect of his baritone performance on his audiences. "It's reduced a lot of the stereotypes and barriers I find, especially when you're wearing the uniform. Sometimes people have had bad experiences with police officers, so they're a little hesitant. But after hearing me sing, they want to shake my hand, and they say, Hey, way to go, this is really different."

Although he confesses to feeling slightly nervous before singing in front of crowds, Wilson is undeniably passionate about music. "Music's vital, it's magical. I love every type of music," he says. "It's like food, it's like nourishment. It's vital for me."

Although he plans to continue singing at events like volleyball matches and hockey games despite his recent retirement, Wilson admits that he has passed the torch to his colleague Veronica Amodeo.

Music is in Amodeo's blood, her talent inherited from her father, she says. "He was in a rock band while I was growing up until I was about five years old. I picked it up from him." Originally from Belleville, Ont., where she has often performed, Amodeo also writes and sings country music. "I have a big booklet of songs I've written. Sometimes something will just come to me and I'll get up in the middle of the night and write it down. I like to just play around with things." Karaoke helps to expand her song repertoire, she adds. "I choose this and that. I think, I've never sung that before. Let's see how that sounds."

A soprano, Amodeo sang the anthem at a Varsity Blues game last summer and is looking forward to more opportunities to perform. Like Wilson, she believes singing is a powerful way the campus police can interact with other members of the community, noting that community policing projects can involve singing for donations or charity.

While she finds music a valuable component of her life, Amodeo is not planning any future tours. For now, she is curious to see where it will lead. "I just find it fun. It's a good chance to get out and have fun doing what you like to do," she says.

Task Force to Review Copyright

By Bruce Rolston

COPYRIGHTABLE WORKS CREATED by faculty members should be treated the same, whether they are books, articles or instructional media, recommends a university task force.

The Task Force on Intellectual Property relating to Instructional Media released its draft report today. Chaired by Dean Ron Daniels of law, the task force was charged with examining whether U of T's policies on copyright and author/university ownership needed to be updated to take into account the increasing use of Web-based "courseware" and other new media resources.

Many other universities are asserting they have rights to courseware created by professors using university resources and

consequently some say in how those products are sold and used. However, the principal recommendation of the U of T task force is that instructional media created by faculty should not be treated differently under university copyright policy than textbooks written by professors, said Daniels.

"New instructional media should be treated equivalently with new textual works," he said. "Copyrightable work should be copyrightable work: we did not see a principled case for differentiating. Otherwise, if a textbook is in paper form there's one set of rules, but if that same material is digitized all of a sudden there's a different set."

U of T's current policy suggests a special claim to instructional media products produced by its professors. But the task force

discovered this formal policy was not being enforced in practice, finding only one case where the university should be sharing the revenue from the sale of courseware with its creator. That would be if a "substantial use of university resources" was involved, the task force recommends — such as the use of special equipment or an "extraordinary" use of the university's multimedia production personnel.

U of T's strong assertion of faculty ownership over their own electronic work may be against the trend set by other universities recently, Daniels said, but the task force believed unresolved issues around ownership of instructional media were impeding its introduction into the classroom. He said the members' intent was to build on last fall's Task Force on Technology-Assisted Education.

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- February 13 **Designing online facilities that really leverage learning**
Steven Shaw, Educational Technology Program, Department of Education, Concordia University
- February 20* **The Rise and Demise of On-Line Education**
David Noble, Department of Political Science, York University. This talk will begin at 5:30 pm.
- February 27 **Educational Webcasting: Technology, Process, Uses, and Issues**
Ron Baecker (UToronto), Dr. Bob Hsuing (Faculty of Medicine, University of Chicago), Dan Keating (OISE/UToronto)
- March 6 **If a classroom could listen, would anyone care? Experiences with eClass**
Gregory Abowd, College of Computing, Georgia Tech
- March 13 **Systems Supporting Student (and Public) Engagement with Research**
John Willinsky, Pacific Press Professor of Literacy and Technology, University of British Columbia
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- March 27 **Educational Objects, Human and Agent Interaction on the Semantic Web: School just ain't what it used to be!**
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Allison Druin, Human-Computer Interaction Lab & College of Education, University of Maryland. This talk will begin at 4:30 pm.
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Tony Bates, Director of Distance Education and Technology, Continuing Studies, University of British Columbia
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Pharmacy Faculty Renamed

By Jessica Whiteside

THE FACULTY OF PHARMACY HAS been renamed the Leslie L. Dan Faculty of Pharmacy at the University of Toronto in recognition of the successes and contributions of one of its most distinguished graduates. The honour, announced Jan. 25, marks the first-ever naming of a pharmacy faculty in Canada.

Dan arrived in Canada as a Hungarian refugee in 1947 with five dollars in his pocket. Now, he's a Canadian success story — an accomplished businessman in the pharmaceutical industry and a leading philanthropist who has supported a variety of organizations around the world, including his alma mater.

Dan and the company he founded, Novopharm, have given close to \$15 million to U of T over the years, the bulk of which has gone to the Faculty of Pharmacy. Dan's donations include support of the faculty's future home, the Leslie L. Dan Pharmacy Building, a \$70-million education and research facility scheduled to open in 2005. His philanthropy

extends beyond U of T into the developing world where he has donated millions in medical supplies.

"I think it's quite exciting that we are naming the faculty for someone who has graduated from the faculty and the University of Toronto, who is such a great Canadian entrepreneur and who has been so supportive of the needs of people not only in Canada but worldwide," said Professor Wayne Hindmarsh, dean of pharmacy.

Dan earned his bachelor's degree in 1954 and an MBA (also from U of T) in 1959. In 1965 he founded Novopharm Ltd., one of Canada's largest manufacturers of generic drugs. Dan is currently chair of the board of Viventia Biotech (formerly Novopharm Biotech), a company still owned by his family, which researches the development of more effective medications to fight cancer.

"Supporting the Faculty of Pharmacy is a way for me to show my thanks and to encourage future innovations in pharmacy education and research," Dan said.

No Deregulation

- CONTINUED FROM PAGE 1 -

government agrees with the province's decision. "The Students' Administrative Council doesn't support deregulation either," said Lindsay Tabah, vice-president (education). "We feel that student debts are high enough, that students pay enough for university. Students from higher income brackets are two and half times more likely to attend university than students from the lowest income brackets. All students, no matter what their economic background, have a right to attend university. It's crucial in this society to have a university education and that university be accessible to all."

Birgeneau noted, however, that the combined resources provided by government grants and regulated tuition do not even cover inflation and unless the underfunding issue is addressed, the Ontario university system will lose its competitive place among the great public universities of the world.

"Ontario ranks at the bottom of the list in provincial university operating grants per student and student-faculty ratios among Ontario universities have increased by 30 per cent over the last decade," he said. "It is critical that the university, its students, alumni and alumnae work together to improve government support."

On the issue of increased government support, he and students are in agreement. "We are definitely underfunded, especially at U of T," said SAC's Tabah,

a fourth-year student in environmental studies. "My classes here have been extremely huge. I think that a lot of people feel that our classes are too big, that there's not enough communication with professors or teaching assistants. Stronger funding has to come from both levels of government in order to sustain quality education and make sure that all students have a right to attend school."

The province's response to Queen's was silent on whether current tuition caps would be raised but Birgeneau said any tuition increase at U of T would be accompanied by support from the university's endowment fund, half of which is earmarked for student financial aid. This year the endowment provided \$25 million in financial assistance.

Financial aid remains one of the key priorities of the university's fundraising campaign. "There are legitimate concerns about levels of student debt, although 56 per cent of U of T undergraduates presently graduate debt free," Birgeneau said. "And for those students in debt, the average debt upon graduation is about \$14,000."

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MARRIAGE STAKES

"Conservatories" raised dowries for young orphaned girls

By MICHAH RYNOR

WE MAY THINK OF charities and orphanages as relatively recent social safety nets but a U of T historian who has been studying the care of disadvantaged children is uncovering some surprisingly forward-thinking initiatives in Renaissance Italy.

Professor Nicholas Terpstra says one of the earliest examples of a welfare state in western society was

the organized care of middle-class, 12-year-old orphaned girls in Bologna and Florence through state-sponsored shelters or "conservatories." There, officials would act much like the service clubs and hospital boards of today, raising individual dowries of cash and bonds from the girls' remaining family members, the wealthy and the resources of the conservatories themselves.

The dowries in turn would allow these girls to find suitable husbands by the time they reached the age of 18, thus avoiding a life of prostitution or thievery on the streets. These offspring of artisans and lower-rung professionals such as notaries, teachers and civil servants were the lucky ones; the needs of lower-class children were virtually ignored. Orphaned middle-class boys, however, were not aided in their quest for a suitable wife. Instead, the energies of the conservatories would be spent training them as shoemakers, butchers, artists, etc.

But Florence, for all its sophistication and progress, compared poorly with the more socially progressive Bologna, Terpstra has found.

"Florence didn't provide much in the way of dowries and they didn't get too involved in finding suitable spouses for these girls as did Bologna," he says. "Bologna was also more involved in trolling for



funds from the girls' relatives." Terpstra believes the reason for this discrepancy is that Bologna was more interested "in a polity of building up a select group of people that we would call citizens which explains why they were much more restrictive in who would come under their protection."

Bologna would provide better care

for these selected girls so that they could reintegrate into middle-class society, Terpstra explains, whereas in Florence these conservatories — which were more like holding pens — were a place of last resort with less concern for bringing these girls back into the fold.

While Terpstra, whose research is financed in part by the Social Sciences and Humanities Research Council, The Renaissance Society of America and the Hannah Foundation, acknowledges that this was definitely an elitist, sexist and grossly unfair system, he is still impressed by how progressive these towns were.

"One of the fascinating things about these two cities and this time frame (early 16th to mid-17th century) is that you see these societies placing an importance on putting fertile girls into legitimate marriages and this relates to how a political unit such as a city chooses to maintain itself."

These measures also reveal that Bologna and, to a lesser degree, Florence, "were societies trying to be more rational and more selective, not just in a disciplinary way but in the realization that middle-class poverty in that period was beyond anything they'd known until that point and this was one way of getting a handle on it."

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UNIVERSITY OF TORONTO Vice-President and Provost

The University of Toronto invites expressions of interest in and nominations for the position of Vice-President and Provost. Established in 1827 by royal charter, the University of Toronto is the largest and most prestigious research-intensive university in Canada. The President of the University, Dr. Robert Birgeneau, has established as the priority of his presidency the goal that the University of Toronto will become one of the top public research universities in the world. Excellent graduate and undergraduate teaching by leading researchers is a fundamental component of achieving this goal.

The University currently has a faculty of 2,800, some 55,000 students enrolled across three campuses, an annual budget of C\$1.1 billion, including approximately C\$280 million in externally funded research on campus, an endowment of \$1.2 billion and the third largest university library in North America. It offers an extraordinary scope of undergraduate and graduate fields of study, including a full range of programs leading to professional degrees. The University of Toronto's academic health sciences complex is one of the largest in North America, incorporating eight multi-site, fully affiliated teaching hospitals, as well as a network of community hospitals and public health agencies.

The Provost reports to the President and works closely with him in support of his vision for the University and serves as the chief academic officer of the University. The positions reporting to the Provost include 25 principals and deans and a number of directors and vice-provosts. The Provost, working closely with the President, must set the overall academic goals of the University of Toronto and oversee the budget process to ensure that the budget reflects these goals. The Provost must ensure that a proper administrative structure is in place to achieve the academic goals. He/she must actively recruit highly accomplished academics with superior administrative skills as vice-provosts, principals and deans and ensure that these appointments support the University's objectives of equity and excellence in research and teaching, both at the graduate and undergraduate levels.

As a result of the provincial government's allocation of significant new funds over the next several years for enrolment growth, the new Provost will have management of this growth as a major priority. The new Provost will, therefore, have the opportunity to oversee the hiring of new faculty by the deans and chairs, estimated to be as many as 200 new faculty members per year for the next five years. With such a large number of appointments, the Provost, in partnership with the President, will have a unique opportunity to enhance further the quality of the faculty and thus move the University much closer to its

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The University of Toronto is strongly committed to diversity within its community and especially welcomes applications from visible minority group members, women, Aboriginal persons, persons with disabilities, members of sexual minority groups, and others who may contribute to the further diversification of ideas.

Further information about the University of Toronto may be found at <http://www.utoronto.ca>.

The President's Advisory Committee wishes to move expeditiously and will begin to review curriculum vitae in mid-February. All correspondence should be sent, in confidence, to the University's executive search consultants:

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**PROPOSAL FOR A NEW
UNIVERSITY COPYRIGHT POLICY**

**The Report of the Task Force on
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January, 2002



PROPOSAL FOR A NEW UNIVERSITY COPYRIGHT POLICY

The Report of the Task Force on Intellectual Property Relating to Instructional Media January, 2002

1 Introduction

The University of Toronto Task Force on Intellectual Property Relating to Instructional Media has been meeting over a period of several months to discuss the challenges and opportunities facing the University. The use of new instructional media ("NIM") has the potential to improve the University's ability to fulfil its fundamental mandates of research and teaching in the spirit of academic freedom. As the Task Force on Academic Computing and New Media concluded, the University must participate in the new digital landscape "if it is to remain an internationally significant research university with excellent graduate and undergraduate programmes."¹ The challenge for University policy is to facilitate the use of new technologies while ensuring that the interests of all members of the University community are protected and our core mission remains intact.

At this point in our deliberations, we would like to share our learning and consult with the broader University community prior to making final recommendations to the University administration. This document is meant to be the basis for such a discussion.

1.1 Summary of Recommendations

1. That the University draft, and adopt, a new *Copyright Policy* based on the model outlined in this report at s. 5.
2. That the University repeal the existing *Policy on Copyright and Other Proprietary Rights* and the *Policy on Computer Software*. The *Policy on Copyright and Other Proprietary Rights* should, however, remain in force for non-copyrightable materials that are not covered by the new policy until a separate policy is written to protect such material.
3. That the University revise the following policies so as to bring them into harmonization with the proposed *Copyright Policy*, as outlined in s. 6 of this report: *Inventions Policy*, *University of Toronto Policy on Conflict of Interest (Academic Staff)*.
4. That the University study the need for a policy addressing the protection of data, databases, and other material that cannot be copyrighted.

1.2 Mandate and Work of the Task Force

The Vice-President—Research & International Relations and the Provost established the Task Force in December 2000 in order to make recommendations regarding University policy on the ownership of instructional materials in electronic media created by members of the University community. As part of its mandate, the Task Force was asked to review the University's existing policy framework, the policies and practices of peer institutions, and consult with the University community.

Members of the Task Force include:

- Ron Daniels, Dean of the Faculty of Law (Chair)
- Peter Munsche, Assistant Vice-President—Technology Transfer
- Carl Amrhein, Dean of Arts & Science
- Mark Chignell, Department of Mechanical & Industrial Engineering
- Carl Corter, Associate Dean, OISE/UT
- Patricia Fleming, Faculty of Information Studies
- Paul Gooch/Vivek Goel, Vice Provost, Faculty
- Adrienne Hood, Department of History
- Kenneth Lavin*, Gerstein Science Information Library
- Carol Moore, Chief Librarian
- Judith Poe*, Department of Chemistry
- Lawrence Spero, Department of Pharmacology and Teaching Laboratories
- Lena Kikuchi, graduate student.

In order to fulfill its mandate, the Task Force held a series of meetings examining the background, context and nature of the phenomenon of NIM, the current relevant University of Toronto policies and practices,

the Canadian legal context, and the best practices of peer institutions. We invited several visitors to share their expertise with the Task Force at these meetings, including: Jonathan Cole, Provost of Columbia University; Wendy Noss, former director of Legal Affairs and Government Relations at CanCopy; William Barek, Director of the Centre for Instructional Technology Development (University of Toronto at Scarborough); and Rob Harvie and Jay Moonah from the Centre for Academic & Adaptive Technology (University of Toronto). In addition, Assistant Professor Lisa Austin of the Faculty of Law and Mr. Jason Bechtel, Intellectual Property and Contracts Counsel, University of Toronto provided invaluable support and advice to members of the Committee (including the development of several critical documents prepared for the Committee).

1.3 Animating Principles

The Task Force has generated the following animating principles for its inquiry:

- 1) The policy should support creative and innovative development of NIM. It should reduce barriers to the development of NIM.
- 2) The policy should protect the integrity of NIM work.
- 3) The policy should provide proper support for, and respect to, the centrality of academic freedom. The policy should facilitate, not distort, the academic mission of the University.
- 4) The policy should acknowledge that faculty will often be in the best position, and should have the greatest incentives, to fully exploit NIM while furthering the central mission of the University.
- 5) The policy should ensure equitable sharing of the risks and rewards of developing NIM between faculty member(s) (and students, where appropriate) and the University.
- 6) The policy should consider the role of the University in supporting development of NIM in a broad sense including: financial and technical support for project development and recognition of the diverse ways in which NIM can complement the research and teaching mission of the University.
- 7) The policy should be clear and accessible, and should minimize the scope for confusion, delay, and uncertainty in implementation. The policy should also minimize, to the greatest extent possible, the need for compliance bureaucracy.
- 8) The policy should be open to, and supportive of, all forms of technology.

2 New Instructional Media

2.1 Properties

New forms of instructional media are numerous and diverse, but have in common the use of new technologies to record and disseminate pedagogical materials. This can take the form of simply extending existing practices, such as placing course texts "on-line" in digital form instead of, or supplementary to, making paper-based materials available. But new forms of instructional media can also change the nature of existing practices. For example, new technologies make it possible to record, store, and disseminate pedagogical experiences that used to be limited to a particular time and place, such as lectures or class discussions. This possibility can in turn transform the nature of both teaching and learning by allowing for the "unbundling" of traditional teaching duties and providing new methods of interaction with students.

While new forms of instructional media continue to evolve, the following list of examples provides a sense of the scope of the phenomenon:

¹ "Discussion Paper to Facilitate University Community Input" (available from Ms. Carol Robb, Office of the Vice-President and Provost), p. 3.

* Kenneth Lavin and Judith Poe are also members of UTFA. However, their membership on this committee should not be construed as UTFA approval of the policy.

- placement of traditional course materials on-line: syllabi, readings, assignments
- placement of non-traditional, multi-media course materials on-line
- use of chat groups, email exchanges, or structured on-line discussions to supplement classroom experiences
- use of instructional software, such as language or math labs to replace more traditional classroom instruction or tutorials
- use of computer simulations to provide laboratory and other learning experiences that would otherwise be too expensive to provide
- creation and use of multi-media texts such as CD-ROMS, which combine traditional text with video clips, and visual and audio aids
- video and/or audio recording of lectures
- use of teleconferencing technology to create virtual classrooms
- use of computer technology to implement new testing and evaluation methods

2.2 The Creative Process

A report prepared for the AAU Digital Networks and Intellectual Property Management Committee by The Intellectual Property Task Force indicated that focusing on the question of whether new media are more like inventions or books is the wrong way to proceed. Instead, "[t]he discussion should focus on the bases of creation of works, the status of the contributors, [and] the resources and facilities necessary for creating the work".² The key is to develop a policy that provides for an equitable sharing of the risks and rewards of the creation of new media, while maintaining the University's core commitment to the creation, preservation, and dissemination of knowledge. It is essential that such a policy address issues such as the allocation of intellectual property rights, revenue sharing, and the reinvestment of revenues in teaching and research in a fair and principled manner. Such a policy can only be developed on the basis of a strong understanding of the creative process for new instructional media.

We expect that the development of many forms of new instructional media will ultimately require a significant investment by the University in equipment, software, and personnel. The costs of developing NIM can be very high, and many of the proposed applications may not have any commercial value but nevertheless should be regarded as essential to the realization of the University's academic mission and hence deserving of support.

Investment by the University can be of several types. First, the University may develop computational resources that come to be considered part of the ordinary infrastructure of the university, much like library holdings. Second, the University may invest in specific projects, such as the development of a particular multi-media online course. Third, because of the significant front-end costs involved, the University may not be in a position to completely self-finance projects and may seek financing through joint ventures with other public bodies or private companies.

The effective development of new instructional media requires more than simply investing in technology and technical personnel. As the University of Toronto Task Force on Academic Computing and New Media stated,

Knowing how technically to employ an application is important but knowing the best practices regarding its effective use in teaching is essential. This should be a community based journey, not one in which each instructor is expected through individual research, or extremely inefficient and frustrating trial and error, to discover what is and is not effective.³

In addition, there is often a significant investment of time on the part of faculty members making use of new instructional media, not only with respect to technical implementation, but also with respect to understanding the best teaching uses of such technology. This may require institutional recognition, whether in the form of teaching relief or PTR/Merit allocations.

All of these considerations highlight the collaborative nature of the creation of many new forms of instructional media. Sometimes this collaboration will reflect the fact that many areas of expertise are involved in carrying out a particular project. Other times collaboration reflects the use to which the new technology is to be put. For example, if

a department decides that instructional software is to be a key component to all future first year introductory courses, then the development of such software is likely to be a joint effort on the part of members of the department rather than a particular faculty member.

Finally, we believe that a focus on the creative process of NIM can indicate an important difference between NIM and traditional texts. The production of a textbook does not require a level of institutional support beyond what is generally provided to all faculty at the University. This changes when a text reaches the publication stage, at which point such support is provided by the publisher. Because of this support, we think that it is reasonable for a publisher to protect its interest in the text in various ways and seek a return on its investment. If the production of NIM requires institutional resources from the University beyond the level generally provided to all faculty, then this puts the University in a similar position to a publisher of a traditional text and may lead the University to assert interests in NIM.

A further important difference between NIM and traditional texts lies in the types of uses that can be made of NIM, which are raising new dilemmas for Universities. We discuss this issue in the following section.

2.3 Potential for Conflict

Although it is essential to understand the creative process in order to develop a fair policy regarding new instructional media, the new scenarios and dilemmas that are emerging because of new technology should not be ignored.

From the perspective of the University faculty, concerns include the appropriation of intellectual creations by others without adequate recognition or recompense, censorship, impeding or manipulating dissemination of information and knowledge, loss of quality control over intellectual product, inappropriate external sponsor influence, and the use of a faculty member or librarian's name. Many of these concerns support the argument that faculty members should retain copyright and moral rights in their works

From the perspective of the University community as a whole, there are concerns regarding conflict of interest, commercialization and the use of the university name.

For example, Harvard University has recently been embroiled in a dispute with Arthur Miller, one of its law professors, who provided videotaped lectures to Concord University, an online institution. Harvard's position is that Miller is in violation of the University policy regarding teaching at another University without permission. Miller's position is that his lectures are more analogous to publishing a book, as he is not actually interacting with the students at Concord University. This dispute is more about conflict of interest than one regarding who contributed to the production of the videos. With increasing opportunities for faculty to engage in projects with other institutions and entities that are competitive with, rather than complementary to, the University and its mission, there is the concern that this will lead to a dissipation of faculty commitment and energy to the detriment of the University community as a whole and its ability to fulfil its mandate of education and research. At the same time, many collaborative projects that faculty engage in will be complementary to the University's mission and should be encouraged.

Such disputes take on added dimensions with the possibility of commercialization of NIM. The market for NIM is currently unstable but it is the belief of many, including commercial entities, that this area holds great promise. However, along with this come the concerns that significant investments of University funds not be exploited for private gain, that faculty and the University community not lose control over their own educational resources or constrain their ability to disseminate research or collaborate with colleagues, and that the University's name and reputation not be diminished in any way.

The Task Force is of the view that many of the dilemmas facing Universities regarding NIM in fact revolve around these issues of conflict of interest, commercialization and the use of the university name. But it is important to understand that the University may protect its interests in these areas without asserting ownership of intellectual property rights over NIM. University policies already exist regarding conflict of interest and the use of the university name and it is our view that these policies must be reviewed and revised to work in harmony with University intellectual property policies so that the right policy tool is available to address the right situation. In this way, faculty interests in

² "Intellectual Property and New Media Technologies: A Framework for Policy Development at AAU Institutions" (May 13, 1999), note 6.

³ "Discussion Paper to Facilitate University Community Input" (available from Ms. Carol Robb, Office of the Vice-President and Provost), p.5.

retaining copyright and moral rights in their works may be harmonized with these other interests of the University.

3 Current University of Toronto Policy Context

Three University of Toronto policies establish the framework for rights in intellectual property created by members of the University community: the 1977 *Policy on Copyright and Other Proprietary Rights* (<http://www.utoronto.ca/govcncl/pap/policies/copyrite.html>), the 1988 *Policy on Computer Software* (<http://www.utoronto.ca/govcncl/pap/policies/software.html>) and the *Inventions Policy* (<http://www.utoronto.ca/govcncl/pap/policies/invent.html>), passed in 1990. Nearly two and a half decades have passed since the creation of the first of these policies, which attempted to cover all proprietary rights in intellectual property. There have been major changes in both intellectual property law and information technology since the passing of that *Policy on Copyright and Other Proprietary Rights*. The *Policy on Computer Software* and the *Inventions Policy* have addressed some of these changes, but the earlier policy is no longer consistent with current practice and the expectations of the University community. The *Policy on Conflict of Interest, Academic Staff* (<http://www.utoronto.ca/govcncl/pap/policies/conacad.html>) sets out the circumstances in which faculty members may engage in activities that may pose an actual or potential conflict of interest with their University responsibilities.

We believe that it would be useful to revise the *Policy on Copyright and Other Proprietary Rights*, given both the desire within the University community for clarification of the status of NIM and the difficulties arising from the fact that the policy and actual University practice are in conflict with one another (see Appendix A). The *Policy on Copyright and Other Proprietary Rights*, for instance, states that all rights in works produced by faculty “shall normally vest in the University” where the University has provided “non-trivial” support for the works. Subsequently, the *Policy on Computer Software* and the *Inventions Policy* have carved out certain exceptions to this general principle. Read together with the other applicable policies, the *Policy on Copyright and Other Proprietary Rights* would grant the University ownership of all rights in intellectual property created with “non-trivial” use of University resources, except inventions covered by the *Inventions Policy* and copyright in printed articles and books. Creators would be required to disclose all such intellectual property to the University and the University would bear the burden and associated cost of administering its rights in this large body of intellectual property. However, the University does not generally assert these rights.

There are good reasons to rewrite the policy rather than simply enforce it. Despite the principle of University ownership, other parts of the *Copyright Policy* give authors the rights normally associated with copyright ownership, such as the sole right to negotiate agreements with publishers and the right to be the sole recipients of royalties from books and articles. Generally however, the barriers to commercializing most intellectual property set out in the *Copyright Policy* would, if actually enforced, provide less of an incentive for creators to commercialize intellectual property than the existing procedure under the *Inventions Policy*.

Furthermore, by exempting printed articles and books, the existing policy invites questions regarding the difference between some types of NIM and articles or books. Traditionally, most Universities have not asserted property rights over works of authorship such as textbooks but have done so with respect to inventions, usually in conjunction with a revenue-sharing scheme. However, new instructional media shares features with *both* texts and inventions and so raises important questions regarding its treatment. New instructional media may look like traditional texts simply disseminated through electronic media, such as when text-based course materials are put on-line. Yet new types of pedagogical materials may include software components that are patentable, may require the significant use of University resources for their development, and may have potential commercial applications. Because these works go to the core of the University’s mission and the faculty’s role in furthering this mission, both parties require clarification regarding the treatment of NIM.

In addition, some forms of new instructional media blur the line between teaching and publishing. For example, having videotaped lectures used at another educational institution could be said to be similar to publishing a text that is then used at another institution but looked at in another way appears to raise conflict of interest concerns

regarding outside teaching engagements as well as the potentially improper use of the University name. An adequate policy needs to clarify the relationship between copyright and these other issues within the University.

Similarly, simply deeming all NIM to be “software” and allowing the *Policy on Computer Software* to govern would not be adequate. While some components of NIM could clearly be treated as software, other components are not software, and it will sometimes be difficult to distinguish between these. Furthermore, it is not clear that the *Policy on Computer Software* will encourage faculty to create NIM, and it does not address some of the other important issues identified in previous sections of this discussion paper. However, this does not mean that the University should treat all computer software under the revised copyright policy. Computer software that may be treated as a patentable invention should still be subject to the *Inventions Policy*.

There are additional concerns regarding the application of University policy to data, databases, and other material that cannot be copyrighted. The Task Force recognizes the need to ensure adequate policy coverage for these materials as they are integral to many areas of University research. However, as this issue lies outside of the mandate of this Task Force, we recommend that the University undertake a careful study of the issues involved in order to determine what University policy should be in this area. As an interim measure, the *Policy on Copyright and Other Proprietary Rights* should remain in force for non-copyrightable materials that are not covered by the new policy until a separate policy is written to protect such material.

4 Existing Legal Regime

Under the Canadian *Copyright Act*, copyright automatically applies to all original works upon their creation and gives the owner of the copyright the exclusive right to produce, reproduce, broadcast, publish, translate, adapt a work, or perform it in public. Copyright generally subsists for the life of the author plus 50 years. The author of a work is the first owner of the copyright, subject to some exceptions. In the context of NIM, the most important exception is for “work made in the course of employment,” in which case the employer is the first owner of copyright.⁴

The author of a work is the individual who makes the work. It is important to note that when a work results from the collaboration of several individuals then there may be joint authorship, in which case the copyright is co-owned.

The author of a work also holds “moral rights” in that work, irrespective of whether he or she continues to own the copyright. Moral rights involve the rights of attribution and integrity.⁵ The right of attribution allows the author to remain anonymous, or be associated with a work either by name or pseudonym. The right of integrity prevents the work from being “distorted, mutilated or otherwise modified” or “used in association with a product, service, cause or institution” where this would prejudice the author’s “honour or reputation.”⁶ Moral rights may not be assigned, but they may be waived.

In the context of NIM, where the University seeks to protect the use of its name, its ability to use a work, its central mission, and revenue sharing when it has invested considerable sums into the development of a work then there are several options open to it. The University could seek the assignment of copyright in the work, in which case it would own copyright. Alternatively, it could seek a non-exclusive licence to make certain uses of the work, in which case the author would continue to own the copyright. Furthermore, if the University is interested in constraining only some uses of the work then this could be accomplished through agreements or the operation of other University policies such as the *Policy on Conflict of Interest, Academic Staff*. Such policies may have to be modified in order to achieve University goals in this area.

5 Model for a Proposed Copyright Policy

The following sections describe the main features of the policy that we propose, along with a discussion of these features and an indication of the options that would still have to be worked out. As we elaborate on in

⁴ *Copyright Act*, R.S.C. 1985, c.C-42, s. 13(3).

⁵ See David Vaver, *Intellectual Property Law: Copyright, Patents, Trade-Marks* (Concord, Ontario: Irwin Law, 1997), pp. 87-93.

⁶ *Copyright Act*, R.S.C. 1985, c.C-42, s. 28.2(1).

section 6 of this document, this proposed policy would require the revocation of both the *Policy on Copyright and Other Proprietary Rights* and the *Policy on Computer Software*. However, we believe that this would further the goals of simplicity, clarity and policy harmonization. In proposing these features, we have endeavoured to adopt the most attractive features of the policies of peer institutions (see Appendix B) while remaining attentive to the strengths, practices and expectations of the University of Toronto community. The *Policy on Copyright and Other Proprietary Rights* should, however, remain in force for non-copyrightable materials that are not covered by the new policy until a separate policy is written to protect such material.

5.1 Preamble

The *Copyright Policy* has the following major objectives:

- 1) To support creative activity and the publication and dissemination of the results of such activity.
- 2) To recognize the centrality of academic freedom.
- 3) To ensure the equitable sharing of the risks and rewards of such creative activity between the appropriate members of the University community.

5.2 Definitions

“work” is anything considered to be a copyrightable work under the *Canadian Copyright Act*.

“author” is the individual who makes the work and who would be considered to be the author under the *Canadian Copyright Act*.

Discussion: We propose that the University copyright policy closely match the existing copyright regime. This reflects our belief that University interests in copyrightable works are well protected through a combination of licensing, revenue-sharing provisions, and the operation of other University policies governing the use of the University name and conflict of commitment. The University does not have to seek ownership of intellectual property outside of a few situations, elaborated upon below, which are consistent with the existing copyright regime.

“substantial use of University resources” includes, for example, release time from regularly assigned duties where the primary purpose of this is the creation of new instructional media; direct discretionary investment by the University of funds or staff, or the purchase of special equipment for the project; extraordinary use of multimedia production personnel and facilities; or extraordinary use of computing resources. It does not include basic salary or the provision of overhead costs associated with the University’s administration of external funds although these may be considered “substantial” in other contexts.

“commercialized” means the distribution of a work outside of the University on a for-profit basis, but shall not include publication or distribution of conventional texts by a recognized university or other academic press. A course should not be considered commercialized simply because the tuition income from the course exceeds the cost of mounting the course.

Option: The use of the University name in connection with commercialization, beyond indicating affiliation, could be considered a substantial use of University resources. In addition, the use of funds administered by the University might be considered a substantial use of University resources in order to make this policy consistent with the *Inventions Policy*. Under the *Inventions Policy*, the University may assert an interest in an invention that was developed using funds administered by the University.

5.3 Rights

- 5.3.1 The general presumption is that the author will retain the copyright to his or her work.

Discussion: In most cases the author will be the faculty member involved in creating the work, or a group of faculty who may claim joint authorship. This is consistent with our

belief that there is an alignment of interests between the faculty and the University and that it is our faculty who are in the best position to determine how a work should be used in order to further the goals of our institution. In addition, we believe that allowing faculty to retain copyright over their work will promote faculty engagement in NIM and thus enhance our community.

Investing copyright in faculty members raises the question of how the University can best support faculty in dealing with the ethical and professional questions that will arise regarding the assignment of copyright and its effects on the public dissemination of a work or the reputation of the author. The Task Force welcomes input from the University community regarding the type of support that would be most helpful to its members. For example, the University could undertake to produce a copyright manual or offer information and training sessions to interested faculty.

- 5.3.2 The University shall own copyright to works made in the course of employment for the purposes of Canadian copyright law. The University does not consider University research and instruction, or the creation of new instructional media, undertaken by faculty or librarians to be made in the course of employment for the purposes of Canadian copyright. The application of this provision to other employees of the University depends upon the terms of their employment.

- 5.3.3 The University shall own copyright to works specifically commissioned by the University. When the University itself commissions a work on behalf of the University or a division of the University it should enter into an explicit agreement with the creators of the work assigning copyright to the University.

5.4 Investment of University Resources

Discussion: The investment of University resources is one of the central triggers for the assertion of University ownership in many of the policies of peer institutions (see Appendix B). However, it is our view that investment of resources is only relevant to potential revenue sharing and that ownership is not required to assert this interest. The University must ensure that the investment of its resources, which include public funds, are not exploited for undue private gain but shared fairly between the author and the University and within the University community itself.

- 5.4.1 The University recognizes that many works created with its funding will be of great benefit to the University community and the public more generally, and only some of these will be commercialized.

- 5.4.2 Works that

- (i) are commercialized; and
- (ii) have been created with the substantial use of University resources

shall be subject to revenue sharing requirements under this policy.

- 5.4.3 The revenue sharing provisions will follow those developed under the *Inventions Policy*.

Discussion: The provisions of the *Inventions Policy* are as follows. The author would agree to pay to the University 25% of the Net Revenues or of any equivalent financial return to the author (if any) on an annual basis. The University portion would be distributed as follows:

For Cumulative University Revenues Up to \$100,000:

- Inventor's Department 50%
- Inventor's Faculty 20%
- University Distribution 30%

For Cumulative University Revenues Above \$100,000:

- Inventor's Department 15%
- Inventor's Faculty 15%
- Connaught Fund 70%

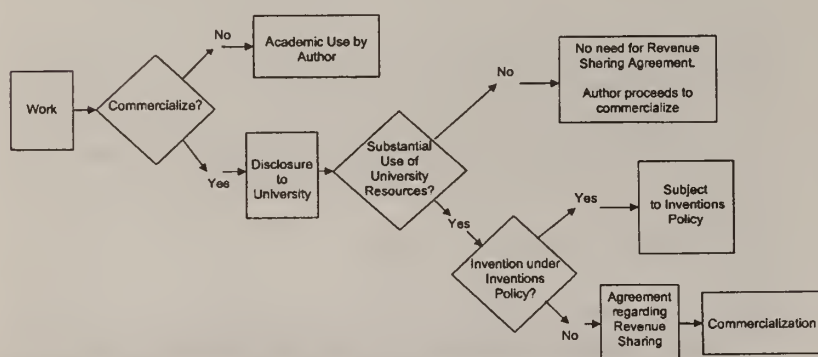
Option: The University could request that part of Connaught Funds be set aside to promote NIM development at the University and, specifically, that revenues received from NIM be used in this manner. However, revenues from works that do not have a primary instructional or educational function should not be used in this manner.

- 5.4.4 If the author does not wish to have the full responsibility for the legal protection and/or commercialization of the work, then the author's rights may be assigned to the University in return for a share of revenues.

Options: The University would also have to determine what the revenue sharing formula would be. The Invention Policy can be used as a model, but the role of the Innovations Foundation or any Centre undertaking an analogous role with respect to the development of NIM would have to be clarified.

- 5.4.5 Authors shall disclose works to the University before intended commercialization using forms and procedures which follow those set out in the *Inventions Policy*.

Discussion: The disclosure and decision making process would be as follows:



5.5 Responsibilities

- 5.5.1 In exercising control over their works, authors are subject to University policy regarding conflict of interest (<http://www.utoronto.ca/govcncl/pap/policies/conacad.html>).

Discussion: We believe that many activities relating to the development of NIM will fall under "major paid professional activities" for the purposes of the *Policy on Conflict of Interest, Academic Staff*, requiring disclosure to and written approval from the University. These uses would include cases where faculty use NIM to teach at another institution or enter into commercialization agreements. See section 6.4 in this document for further elaboration. However, it is important that this interpretation be confirmed through explicit language in the conflicts policy itself.

Option: The University might want to amend the *Policy on Conflict of Interest, Academic Staff* to address the uses of NIM. In particular, it should be made explicit that using NIM to compete with the University is a conflict of interest notwithstanding the fact that this use may not involve a significant time commitment on the part of the faculty member in question. The current policy is a frozen policy under the Memorandum of Agreement between the University and UTFA and any amendments to it would require the consent of both UTFA and the University.

- 5.5.2 Any use of the University name in connection with the work, apart from indicating the institutional affiliation of the author(s), requires explicit permission from the University.

Discussion: We recognize that the use of the University name in conjunction with a work constitutes a significant advantage in many contexts. However, it is essential that the University control the use of its name in order to protect its reputation, and this becomes even more acute in the context of non-University sponsored commercialization of NIM. The University should not be taken to endorse particular products. However,

University control should not extend to the indication of institutional affiliation even though we recognize that this in itself is of significant benefit to faculty. Such use of the University name is no different from other contexts, such as outside consulting, and so should not be treated differently in the context of NIM.

Option: The University might want to amend the existing *Policy on the Use of the University of Toronto Name* to address this issue and then cross-reference the policy here (<http://www.utoronto.ca/govcncl/pap/policies/uoftname.html>).

- 5.5.3 The University, as a matter of right, is entitled to a non-exclusive licence to use, for teaching and research purposes, all works that are:

- (i) created at the University; or
- (ii) created with substantial use of University resources.

This licence does not affect the author's moral rights in the licensed work. In the case of (i), the licence will be made available to the University at reasonable cost. In the case of (ii), the University is entitled to the licence at no cost.

Discussion: This provision comports with the belief, and practice, that the open sharing of work within the University community supports the collaboration and collegiality essential to the University fulfilling its mission.

Options: The University needs to resolve how it will deal with departures of faculty, and requests to modify NIM, both by the original authors and by those who make use of it.

- 5.5.4 Where the University owns the copyright in a work, the individuals involved in creating the work have the following rights:

- (i) to have their contribution(s) acknowledged; and
- (ii) to use the work and change it for non-commercial University purposes.

5.6 Dispute Resolution

- 5.6.1 Where possible, potential sources of conflict should be identified and dealt with through written agreements prior to the beginning of a project, including who will be considered an author.

Options: The University could require such written agreement in certain circumstances, such as when the project relies upon either the significant use of University resources or external funds administered by the University. There would then be many practical considerations regarding how to implement this.

- 5.6.2 All other disputes arising out of this policy will be resolved through following the Board of Arbitration model in the *Inventions Policy*. The Board would be composed of one member nominated by the Author, one member nominated by the University and one member selected by the first two or, in the absence of an agreement between them, by some named person (<http://www.utoronto.ca/govcncl/pap/policies/invent.html>).

5.7 Review of Policy

- 5.7.1 Three years after the effective date of this Policy, the Provost shall appoint a committee to review this policy and its implementation, and if appropriate, to recommend revisions to this Policy.

6 Interaction with Existing Policies

6.1 Copyright Policy

The existing *Policy on Copyright and Other Proprietary Rights* would be replaced with the proposed policy. As the existing practice of the University is not to claim copyright in any materials unless created under commission or contract, or unless they fall under the *Policy on Computer Software*, adopting the proposed policy would not appreciably

alter established practice. Moreover, the proposed policy deals with the central issues that the existing copyright policy was meant to address. According to the existing policy,

The previously somewhat loosely defined nature of the rights of authors of works and rights of the University in such works has in several cases permitted commercial exploitation by the creators of products of research done using financial support provided through the University. While commercial exploitation of research results should be encouraged, there is an obvious potential conflict of interest where University research funds may be used to create a commercially viable product which is then exploited for profit by the researcher. Some abuses have indicated the need for a clear definition of University rights so that if examples of such abuse recur the University may have recourse either to legal remedy or to disciplinary action.

At the same time, the creation of intellectual products (whether books, computer software, teaching materials, or other types) has been fostered by the tradition of independent scholarship. In defining the rights of the University and of the author, the policy statement seeks both to encourage independent creative activity and to protect against abuse of the rights necessary to the creative environment for such activity.⁷

The proposed policy would deal with the potential commercial exploitation of works through a combination of the revenue sharing provisions and the conflict of interest policy. It protects the University tradition of independent scholarship through its presumption that copyright is retained by the author and not the University.

One major design difference between the existing policy and the proposed policy is that printed articles and books are not specifically exempt from the provisions of the proposed policy. This means that if an author makes substantial use of University resources in producing a book or article, then the revenue sharing provisions of the proposed policy may be triggered. However, the types of uses of University resources that have traditionally been involved in creating these texts would not qualify as substantial uses. Therefore the effective status quo with respect to these texts will not be altered. In addition, publication of a conventional text by an academic press does not fit the policy's definition of "commercialized."

6.2 Policy on Computer Software

Determining the distinction between course content and the courseware or software used to deliver the course content is fraught with difficulties. Often software will be an integral part of the course content. Given this, the Task Force does not recommend retaining a separate policy for computer software. Instead, the existing *Policy on Computer Software* would be replaced with the proposed policy.

The existing policy on computer software delineates five categories of software (<http://www.utoronto.ca/govcncl/pap/policies/software.html>). Replacing this policy with the proposed copyright policy would only affect the third category. Category 3 relates to computer software that arises as part of a research program or programs using funds administered by the University or software that has been created with the significant use of University facilities or resources, and stipulates that ownership will reside with the creator until commercialization, at which point the University asserts an interest and may elect to share the financial rewards. There are also provisions for disclosure with respect to the proposed commercialization of software.

Under the proposed policy, where substantial use of University resources is made, the University will assert a financial interest at the point of commercialization but not an ownership interest.

6.3 Inventions Policy

The *Inventions Policy* would not be affected, apart from certain amendments to definitions to reflect the replacement of the *Policy on Computer Software* with the proposed policy. There may be components of NIM that would fall under the *Inventions Policy*, which would be dealt with in accordance with that policy.

6.4 University of Toronto Policy on Conflict of Interest (Academic Staff)

Under this policy, faculty members must seek prior written approval to engage in "major paid professional activities." A "major paid professional activity" is defined under the policy as:

- (a) teaching for remuneration outside the University, other than occasional lectures, whether at another academic institution or for a professional development programme; or
- (b) a commitment to any individual project totaling more than 20 days in an academic year; or
- (c) any combination of paid professional activities that are likely to exceed 45 days during an academic year.⁸

Many uses of NIM, including commercialization, would therefore fall under the conflicts policy quite independently of the University being able to claim any proprietary interest in the work. As the policy contemplates any teaching beyond occasional lectures, we believe that remuneration for the use of NIM by another institution is caught by these provisions. This would mean that faculty would have to disclose their use of NIM and seek approval for their activities. However, we recognize that this is an interpretation of the existing policy and that it would be advisable to revise the language of the policy to include explicit language to this effect. Moreover, current University practice focuses on the time element involved in potential conflicts and it is important that the policy recognize that conflicts may occur in the context of NIM even with no significant time commitment on the part of a faculty member. For example, if a faculty member decides to provide his or her NIM work to another institution then this does not involve any further time commitment as the work already exists. However, depending on the circumstances, it may involve a conflict of interest.

The policy also states that the division head or chair who is to make the decision regarding major paid professional activities

shall evaluate the request in light of the extent to which the activity will undermine rather than enhance the teaching, research, and service responsibilities of the faculty member, while at the same time recognizing that faculty members are not to be discouraged from nor unduly restricted in this sort of activity, as it represents an important mechanism for disseminating the knowledge and expertise of faculty members to the community and for contributing to the faculty member's intellectual and professional development.⁹

It is clear from this that uses of NIM consistent with the University mission will be permitted. However, we recommend that the language of this policy make explicit that the University may also consider the University's reputation, and broader effects on the University community and its ability to maintain its core principles. It should be recognized that the University's reputation depends upon a climate of intellectual pluralism and vibrant debate.

The current policy is a frozen policy under the Memorandum of Agreement between the University and UTFA and any amendments to it would require the consent of both UTFA and the University.

7 Promotion of New Instructional Media

The proposed policy cannot operate in a vacuum. If NIM is to reach its full potential in promoting the University mission then many other forms of support must be put in place, and University practices in this area must match University policy to avoid confusion and conflict.

In light of this, the Task Force echoes many of the recommendations of the Task Force on Technology-Assisted Education in calling for further institutional support for NIM both in the form of increased investment and PTR recognition for faculty who participate in these projects. In particular, we believe that further investment in an on-site facility that can support faculty work in this area is crucial to the successful exploitation of NIM at the University. Such a facility or facilities should provide "one-stop shopping" for faculty. It is important that expert help is given to faculty in such a way that makes it as easy as possible for faculty to concentrate on their strengths of content provision and not have to invest considerable time in attaining technical know-how. We also note that many applications of NIM will not be commercially attractive but nonetheless are integral to the University mission in a global environment. Producing NIM at the University will ensure that this promise will be realized in high-quality products consistent with the strong reputation of the University of Toronto as well as insulate our initiatives from current concerns regarding the stability and interest of commercial providers in this area.

⁸ Section 3.

⁹ Section 5(d).

⁷ *University Policy on Copyright and Other Proprietary Rights*, section 3.



University of Toronto

OFFICE OF THE VICE-PRESIDENT - RESEARCH AND INTERNATIONAL RELATIONS

Memorandum

TO: **Task Force on Intellectual Property Relating to Instructional Media**
 FROM: Jason T. Bechtel
 Intellectual Property & Contracts Counsel
 SUBJECT: **University of Toronto Policies Relating to Instructional Media**

April 20, 2001

Three University of Toronto policies establish the framework for rights in intellectual property created by members of the University community: the 1977 *Policy on Copyright and Other Proprietary Rights*, the 1988 *Policy on Computer Software* and the *Inventions Policy*, passed in 1990. Nearly two and a half decades have passed since the creation of the first of these policies, which attempted to cover all proprietary rights in intellectual property. There have been major changes in both intellectual property law and information technology since the passing of that *Policy on Copyright and Other Proprietary Rights*. The *Policy on Computer Software* and the *Inventions Policy* addressed some of these changes, but the earlier policy is no longer consistent with current practice and the expectations of the University community.

Additionally, with today's technology, faculty can create instructional works which could compete with the University's own course offerings if licensed to a company or another University. Moreover, in the absence of any controls, the University's name could be used to market these competing works. The *Policy on Conflict of Interest, Academic Staff* sets out the circumstances in which faculty members may engage in activities that may pose an actual or potential conflict of commitment to their University responsibilities.

This memorandum outlines the foregoing policies and sets out points for consideration in the redrafting of existing policy.

I. Policy on Copyright and Other Proprietary Rights (1977)

Application: This policy applies to all copyrights, rights of commercial use, and all other proprietary rights, except patent rights, in "works" resulting from University-commissioned and University-sponsored activities of community members. Patent rights were covered by the *Patent Policy* (now the *Inventions Policy*).

"Works" are broadly defined to include all products of University-sponsored activities, including software, audio-visual materials, articles, books, data, know-how, and research techniques, tools, equipment, and instruments. "University-sponsored" activities entail explicit financial support given or administered by the University and "non-trivial" use of University resources. The policy does not apply to works created with only incidental use of University resources, without funding administered or provided by the University, and not under commission.

Effect: Generally, the policy gives the University all rights in works resulting from University-sponsored activities, including some scholarly works created using funds administered by the University. The policy requires the University's approval of all "non-trivial" commercialization of the results of University-sponsored activities, other than the publication of books and articles. The policy provides for sharing of revenue from commercialization of intellectual property, other than royalties and honoraria received by authors from the publication of books and articles.

In practice, however, the University generally does not claim copyright on books, articles, plays, music, films, videos or other copyright works created by University faculty, staff or students. There are two major exceptions to this practice:

- **Works created under commission or contract:** Works created as part of the terms of the creator's employment with the University or under commission from or service contract with the University or a sponsor of the research. Rights are determined in accordance with the contract.

- **Computer software:** Software that lies in the first three categories of the *Policy on Computer Software* (see below). This includes multi-media works. Rights are determined in accordance with the *Policy on Computer Software* and the *Inventions Policy*.

II. Policy on Computer Software (1988)

Application: The policy applies to "computer software," defined as a set of instructions that is expressed, fixed, embodied or stored in any manner and that can be used directly or indirectly in a computer to bring about a specific result, including related documentation.

Effect: This policy recognises several different categories of computer software, based on the circumstances under which the software was created. These categories range from sole ownership by the creator when University resources are used only incidentally to create the software, to University ownership where the work was commissioned by the University. A table outlining the categories is attached as an appendix to this memorandum.

Generally, software which has been developed with the aid of University resources or using funds administered by the University is treated as an "invention" under the *Inventions Policy* and is, at first instance, owned jointly by the creator and the University.

III. Inventions Policy (1990)

Application: The *Inventions Policy* applies to inventions, whether or not patentable, computer software within Categories 1(b) and 3 of the *Policy on Computer Software* (see attached table), trademarks relating thereto, and to any like proprietary right not covered by the *Copyright Policy*. It does not apply to inventions, computer software and related trademarks created in the course of demonstrably private research unrelated to the creator's University functions or in the course of consulting activities to outside bodies, when those activities do not involve substantial use of University facilities.

Effect: The University owns all inventions made in the course of activities performed under the direction of the University specifically with the object of making the invention. All other inventions within the scope of the policy are owned jointly by the University and the inventor. The inventor is obliged to disclose any invention to the University and will be asked which of two "routes" he or she wishes to follow:

- **Assignment of rights to the University:** The inventor offers the invention to the University. If the University accepts the offer, it assumes responsibility for legally protecting and marketing the invention, finding a licensee, negotiating a licence agreement and administering that agreement. The University retains 75% of the net revenues; the inventor receives 25%.
- **Assignment of rights to the inventor:** The University assigns its rights to the inventor, who assumes responsibility for legally protecting and marketing the invention, finding a licensee, negotiating a licence agreement and administering that agreement. The inventor retains 75% of net revenues; the University receives 25%.

Prior agreements with sponsors and external institutions can limit the application of this policy. For example, if a grant or contract gives the sponsor or licensing rights or ownership, such obligations apply regardless of which route is followed.

IV. Policy on Conflict of Interest Policy - Academic Staff (1994)

Application: This policy identifies the pursuit of truth, advancement of learning and dissemination of knowledge generally as the principal responsibilities of a faculty member to the University and provides a mechanism for disclosure and review of activities that may present an actual or apparent conflict with these responsibilities.

Effect: This policy requires academic staff to obtain the approval of the person to whom they report before they can:

- engage in “major paid professional activities,” defined as teaching for remuneration outside the University, commitment to any single paid professional activity totalling more than 20 days a year, or any combination of paid professional activities likely to exceed more than 45 days a year;
- use University facilities, supplies, staff or students in privately undertaken work or paid professional activity;
- influence the use of University funds to convey or deny a financial or commercial benefit on a member of the faculty member’s immediate family or a person with whom there exists, or has recently existed, an intimate personal relationship;
- evaluate, or confer or deny academic benefit on, a member of the faculty member’s immediate family or a person with who there exists, or has recently existed, an intimate personal relationship;
- undertake research sponsored by a company or organisation in which a significant financial interest is held by the faculty member or any member of the faculty member’s immediate family or any person with whom there exists or has existed an intimate personal relationship.

The policy also requires that, when publishing the findings of research, a faculty member must name the source of funding in the publication.

V. Discussion

The existing *Copyright Policy* states that all rights in works produced by faculty “shall normally vest in the University” where the University has provided “non-trivial” support for the works. Subsequently, the *Policy on Computer Software* and the *Inventions Policy* have carved out certain exceptions to this general principle.

However, read together with the other applicable policies, the *Copyright Policy* would grant the University ownership of all rights in intellectual property created with “non-trivial” use of University resources, except inventions covered by the *Inventions Policy* and copyright in printed articles and books. Creators would be required to disclose all such intellectual property to the University and the University would bear the burden and associated cost of administering its rights in this large body of intellectual property.

Despite the principle of University ownership, other parts of the *Copyright Policy* give authors the rights normally associated with copyright ownership, such as the sole right to negotiate agreements with publishers and be the sole recipients of royalties from books and

articles. Generally however, the barriers to commercializing most intellectual property set out the *Copyright Policy* would, if actually enforced, provide less of an incentive for creators to commercialize intellectual property than the existing procedure under the *Inventions Policy*.

The existing *Copyright Policy* also purports to deal with rights in research tools, but further clarification of ownership of research tools is required. Research tools are products of one research project that, while not inventions within the scope of the *Inventions Policy*, can nevertheless be useful in other projects. While some may have commercial value, the principal reason for clarifying their ownership is to ensure that they are conserved and made available to the research community. There have also been disputes between students and their supervisors regarding ownership of data. Again, strict application of the *Copyright Policy* would generally result in the assignment of all rights in research tools to the University.

With regard to copyright in “new media” works, the University has the option of making no distinction between works in print and those published in “new media.” However,

- Computer software is one kind of copyright work which, absent the *Policy on Computer Software*, would be dealt with solely under the *Copyright Policy*. The *Policy on Computer Software* reflects the view that ownership should vary according to the circumstances under which the work was created, and how is it used. “New media” works, it could be argued, are a type of software. In terms of practical impact, this interpretation would confirm, rather than alter, the status quo.
- Traditionally, the University has had a double standard with regard to intellectual property. Intellectual property arising from the sciences is often patentable subject matter or software, which is clearly subject to the *Inventions Policy*. Under that policy, the University has claimed joint ownership and a share in revenues arising from commercialization. In contrast, intellectual property arising from the arts and humanities more often comprises books and articles in print, which have been subject to no such claim – even when they generated substantial revenues. This has been noted, and resented, by faculty working in the sciences.
- Using today’s technology, faculty are now able to create instructional works which, if licensed to a company or another university, could be in competition with the University’s own course offerings. The development of such a course for a third party using University resources may be reviewable under the *Policy on Conflict of Interest, Academic Staff*, and teaching for remuneration outside the University is deemed to be a reviewable activity under that policy. Moreover, in the absence of any controls, the University’s name could be used to market these competing works. Treatment of instructional works in the same manner as other forms of intellectual property may provide a useful “checkpoint” to manage these issues and ensure that appropriate measures to minimize conflicts of interest are taken.

Policy on Computer Software: Categories of Computer Software

Definition: “Computer software” is a set of instructions that is expressed, fixed, embodied or stored in any manner and that can be used directly or indirectly in a computer in order to bring about a specific result. In this policy, “computer software” includes related documentation.

	Category	Ownership	Revenue Sharing
1(a)	Created for University purposes in the course of the creator’s employment or under a contract for services	University	University retains all revenue
1(b)	Created in the course of the creator’s employment or under a contract for services, under a program or project where funds are administered or provided by the University	Project Director and University (deemed an invention under <i>Inventions Policy</i>) Project Director may elect to take personal ownership or assign to University	Shared in accordance with <i>Inventions Policy</i> : party taking ownership retains 75% of net revenue, other party receives 25%
2	Created under an externally funded grant or contract entered into specifically for the creation of the software	University, which may assign to sponsor *	
3	Created with significant use of University resources or facilities <u>and/or</u> as part of a research program where funds are administered or provided by the University	Creator and University (deemed an invention under <i>Inventions Policy</i>) Creator may elect to take personal ownership or assign to University	
4	Created without significant use of University resources or facilities <u>and</u> independent from research programs where funds are administered or provided by the University	Creator	Creator retains all revenue
5	Created by a student as part of assigned work or studies or as an independent activity, without significant use of University resources or facilities <u>and</u> independent from research programs where funds are administered or provided by the University		
* Unless the agreement with the sponsor requires otherwise, Category 2 software is treated in practice in the same manner as Category 3 software and may be assigned to the creator, subject to any rights of the sponsor.			

Copyright Policy: Comparison between Policy Requirements and Current Practice

CP = Copyright Policy IP = Inventions Policy CS = Policy on Computer Software	
Copyright Policy	Practice
P R O P R I E T A R Y R I G H T S	
Creator makes incidental use of normally available University resources: creator holds all rights. <u>CP</u> 4(a).	Same. See also <u>IP</u> 1.2 and <u>CS</u> categories 4 and 5.
University directs creator to develop a work as part of creator’s employment duties (<i>i.e.</i> work for hire): University holds all rights. <u>CP</u> 4(b).	Same. See also <u>IP</u> 2.1 and <u>CS</u> category 1(a).
Where University administers funds provided by a sponsor under an agreement with the sponsor, agreement may require assignment of rights in works to sponsor. <u>CP</u> 4(d), 7 & 13.	Same. See <u>IP</u> 2.4 and <u>CS</u> Category 2.
University provides/administers funds and/or creator makes non-trivial use of University resources: <ul style="list-style-type: none">• Creator holds all rights in articles and books.• University holds all other rights and creator may only use and distribute the work for non-commercial purposes. <u>CP</u> 4(c) and 9.	Creator holds all rights, unless work for hire or an invention under <u>IP</u> (including certain software under <u>CS</u>). If invention under <u>IP</u> , jointly owned by University and creator; creator entitled to receive assignment of University’s rights. If creator does not want assignment, University may request assignment of creator’s rights. <u>IP</u> 2.2, 3.2 & 3.3. <i>Are articles and books in electronic form “computer software” under <u>CS</u>?</i>
Unless University or sponsor holds copyright, creator has right to negotiate for publication of articles and books. <u>CP</u> 8.	Same.
Where University holds copyright in articles or books, creator may cause University to assign its rights to a publisher if publisher so requires. <u>CP</u> 8.	Creator holds all rights in articles or books, so no assignment required, unless work for hire or invention under <u>IP</u> (including software under <u>CS</u> categories 1(b) or 3). If invention under <u>IP</u> , creator entitled to receive assignment of University’s rights. <u>IP</u> 3.1.
Regardless of ownership, University and creator each retain the non-exclusive right to use the work for research and teaching purposes.	Same.
R E V E N U E S H A R I N G	
Creator receives all revenue from publication of books or articles. <u>CP</u> 8 & 12(a).	Same, unless work for hire or invention under <u>IP</u> (including certain software under <u>CS</u>).
In all other cases where University or creator hold rights, University and creator share revenue. <ul style="list-style-type: none">• Revenue from patents shared under <i>Patent Policy</i> (now <u>IP</u>).• Revenue from audio-visual materials shared under <i>Policy on Rights Relating to Audio-Visual Materials</i> (defunct).• Revenue from all other works first applied to reimburse legal, distribution, duplication, and maintenance; remainder shared according to formula. <u>CP</u> 12(d).	Creator receives all revenue, unless work for hire or invention under <u>IP</u> (including certain software under <u>CS</u>). If invention under <u>IP</u> and: <ul style="list-style-type: none">• Creator owns, creator retains 75% of net revenue; University receives 25%; or,• University owns, creator receives first \$1,000 of net revenue plus 25% of net revenue thereafter; University retains 75%. <u>IP</u> 5.

May 17, 2001

UNIVERSITY POLICIES ON NEW INSTRUCTIONAL MEDIA: BEST PRACTICES OF PEER INSTITUTIONS

Discussion Paper for the University of Toronto Task Force on Intellectual Property Relating to Instructional Media

Introduction

Traditionally, most universities have not asserted property rights over works of authorship such as textbooks but have done so with respect to inventions, usually in conjunction with a revenue-sharing scheme. However, New Instructional Media (NIM) shares features with both texts and inventions and so raises important questions regarding their treatment. NIM may look like traditional texts simply disseminated through electronic media, such as when text-based course materials are put on-line. Yet new types of pedagogical materials may include software components that are patentable, may require the significant use of university resources for their development, and may have significant commercial potential. Therefore some parties have argued that extending the traditional university position regarding copyright to cover NIM is not appropriate. In addition, the uses to which NIM can be put often raise novel issues regarding conflict of commitment and the use of the University name. Finally, in seeking to create a policy regarding NIM, these issues must be addressed in a way that does not undermine the University's core mission of education, research, and the creation and dissemination of knowledge, or the academic freedom of faculty.

Different Models

Responses to these concerns regarding the appropriate treatment of NIM have varied. The most dramatic recent development has been MIT's announcement of its OpenCourseWare, which will make available MIT course materials available on the web for free.¹⁰ A pilot program is to begin in the fall of 2001, and the intention is that most materials will fall under the MIT policy on textbook authorship, with MIT retaining ownership "when significant use has been made of the Institute's resources." There is currently an Ad Hoc Faculty Committee on Intellectual Property and Conflict of Commitment that is charged with determining the principles that are to guide ownership of intellectual property in this arena of new educational technology.¹¹ Therefore at this time they do not have an actual policy to study.

This memo discusses the policies of four Universities—Chicago, Columbia, McGill and Melbourne—who have recently revised their intellectual property policies in light of NIM. While these policies try to reconcile a similar set of interests, they nonetheless represent different models. Understanding some of the key differences between these four policies can highlight the major choices facing the University of Toronto in creating its own policy. The differences between these policies with respect to the comprehensiveness of the policy, who can claim ownership, commercialization, revenue sharing, use of university name, disclosure requirements, conflict of interest/commitment, and dispute resolution are outlined in the following discussion and comparison chart. However, it is worth highlighting these first two issues, as they are probably the most important to determine at the outset.

Comprehensiveness of the Policy

McGill and Melbourne have opted for a comprehensive intellectual property policy. However, within its policy McGill makes a traditional distinction between copyright, software and inventions. Melbourne has one regime regardless of the type of intellectual property right at stake or the nature of the subject matter. Both Columbia and Chicago deal with most intellectual property issues arising out of NIM through revisions to their copyright policies and retain separate policies dealing with patentable inventions.

Ownership

The policies fall along a spectrum, from Chicago asserting that the University owns all intellectual property to Melbourne asserting that the faculty owns all intellectual property. However, these two extremes are

more similar than they may appear at first glance. Melbourne claims a share in revenue once revenues exceed \$50,000. Similarly, Chicago claims to only exercise IP rights when revenue from commercial use becomes substantial. This is in contrast to Chicago's *Patent Policy*, in which rights are assigned to the University and the University *manages* the intellectual property from the outset, sharing returns with the inventor. Therefore, the practical effect at both Chicago and Melbourne is to allow faculty to manage intellectual property with respect to NIM until a certain level of commercial revenue is reached. This is irrespective of the level, and type, of initial institutional investment in the relevant work although such considerations do play a role in the revenue sharing scheme.

Columbia and McGill fall in between the Chicago and Melbourne models, as neither has a default position that grants all intellectual property rights in NIM to either the University or faculty. Columbia makes the level of resources used determinative, and also asserts ownership over institutional courses, which are the result of collaboration over time. Therefore it focuses on the creation process. Columbia also deals with any patentable aspect of software through a separate policy (as does Chicago). McGill's policy focuses on the subject-matter rather than revenue or the creation process. Therefore "Works" are treated differently from "Software" (which includes "Learnware"), which is treated in a substantially similar manner to "Inventions". Both McGill and Columbia allow for these arrangements to be altered through specific agreements and both assert revenue sharing interests over some aspects of intellectual property.

University of Chicago

The University of Chicago report entitled *New Information Technologies and Intellectual Property at the University* (1999) recommends that since the dissemination of knowledge at a University is essentially a collective enterprise, the University should take steps to implement the principle that "the University owns the intellectual property the faculty create at the University or with substantial aid of its facilities or its financial support."¹² However, the University would only assert this interest when the revenues generated by the commercial use of new information technologies are "substantial". Therefore faculty would continue to enjoy royalties from traditional texts, even if disseminated electronically, as these generally do not command substantial revenues.

The report is also clear that "[n]either new information technology nor rules and procedures designed to accommodate them should interfere in any way with the ability of faculty members to pursue their research and freely present their ideas to their colleagues, their students and the world at large."

Other features of this policy include:

- Timely disclosure of faculty uses of new technology for commercial gain is essential.
- Revenue sharing between faculty and the University should follow the model already developed for patents and discoveries.
- Disputes over ownership are to be resolved by the faculty committee already in place to resolve other intellectual property disputes.
- Existing policy regarding conflict of interest and conflict of commitment should not change.
- Faculty use of new information technologies should not give the appearance of being sponsored by the University.

Software that is considered "device-like" would be treated as an invention and covered under the University of Chicago's *Policy on*

¹⁰ See: <http://web.mit.edu/newsoffice/nr/2001/ocw-facts.html> (last visited 5/17/01).

¹¹ See: <http://web.mit.edu/committees/ip> (last visited 5/17/01).

¹² Available at: http://www.uchicago.edu/docs/policies/intell_prop.html (last visited 2/22/01).

Patents and Software.¹³ However, this does not include software that has a primarily educational focus, which is treated as published material. The University of Chicago's policy on *Outside Professional and Commercial Interests of Faculty/Conflict of Interest* (1996) reiterates the University's basic policy requiring that the outside consultation and educational activities of faculty be consistent with the faculty's obligations to the University and the "fullest development of scholarly activities".¹⁴ However, recognizing the increasing complexity of faculty involvement in outside activities, it discusses in more detail possible conflict of interest. A conflict of interest is held to exist when "the designated official reasonable determines that a Significant Financial Interest could directly and significantly affect the performance of University duties." The policy does not specifically address conflicts of commitment.

Columbia University

Columbia University's *Copyright Policy* (2000) directly addresses many of the issues arising from the use of new instructional media. It recognizes that faculty have copyright ownership of traditional works of authorship such as textbooks. However, it asserts copyright in any work that is:

- (i) created with substantial use of University resources, financial support or non-faculty University personnel beyond the level of common resources provided to faculty; (ii) created or commissioned for use by the University; or (iii) created under the terms of a sponsored project where the terms of the sponsored project require that copyright be in the name of the University.

Substantial use of University resources does not include the ordinary use of computer facilities, office, library and secretarial staff and supplies. However, use of the University's name in connection with the work except to identify the creator is considered to be use of a significant University resource.

The policy distinguishes between "courseware", which is the technology used to present course content and "course content", which is the intellectual content of the course. The University asserts copyright over the course content and courseware created for "institutional courses", which are those "created under the aegis of a school or department of the University". It also asserts copyright where faculty has created a non-institutional course making substantial use of University resources, as well as over all videotapes and recordings made at University expense. However, faculty are still accorded the following rights:

- Faculty who have created this course content or courseware are free to use it and change it for non-commercial University purposes such as teaching or research.
- The University will not commercialize course content and courseware without the agreement of the faculty members who created it, and any revenue arising out of such commercialization will be shared with the creators.
- A faculty member who leaves the University is free to use the course content and courseware that he or she created for teaching, research and other non-commercial purposes provided that Columbia's name is not used.
- The University will accommodate the wishes of the creator of the work to freely distribute it to the public so long as the benefits outweigh the advantages of commercialization.

Faculty has copyright over non-institutional course content and courseware, so long as it is developed without the substantial use of University resources. This is subject to the following restrictions:

- If videotaped or recorded at University expense, the University has rights over the recording, but not the intellectual content.
- Faculty may not commercialize course content or courseware created either at Columbia University or while visiting other academic institutions without University approval.
- If the Faculty member leaves Columbia University, then he or she is free to commercialize the course content and courseware providing that Columbia's name is not used and that Columbia University is accorded the right to continue using the course content and courseware for non-commercial educational activities.

Columbia University's *Statement of Policy on Proprietary Rights in the Intellectual Products of Faculty Activity* (1989) is much like other general inventions policies except that it deals with the conditions under which the University will assert commercial rights in a "conception" defined as "[a]n invention or discovery that is or may be patentable, together with any supporting technology, including computer programs and computer screen presentations, required for its development and exploitation."¹⁵

Some aspects of Columbia University's *Statement of University Policy on Conflicts of Interest* (1987) are germane to the issues raised by new instructional media.¹⁶ With respect to conflicts of commitment, faculty are not permitted to take a regular teaching assignment with another institution without permission from the University, which requires the "assurance of the Department Chairman to the Dean that such employment will not impair the institutional offerings of the department". With respect to the use of the University name or resources, the name of the University may only be used in connection with legitimate University purposes and University resources can not be used in connection with outside activities except with special permission to be granted only in certain circumstances.

McGill University

McGill's recent *Proposal for a Policy on Intellectual Property* (March 29, 2001) combines policy statements regarding copyright, software, inventions, and commercialization in one policy.¹⁷ Conflicts of interest are dealt with through a separate *Conflict of Interest Policy*.¹⁸

Under McGill's proposed policy, copyright is treated separately from software and inventions. The section of the policy regarding copyright provides that the author of a "Work" owns the copyright, and "Work" is defined as "literary, scientific, technical, dramatic, musical, artistic, architectural work material and any original production within the purview of the Copyright Act, with the exception of Software." The exceptions to this policy include when the Work was created pursuant to a formal agreement with the University, including when sponsored by a third-party, in which case copyright is determined by the terms of the agreement. Another exception is when software is the primary constituent of the Work, in which case it is governed by the software policy. In addition, the policy stipulates that the University is given a non-exclusive license to use, for academic purposes, all Works created "a) with University assistance; or b) with the use of University equipment, facilities, or resources; or c) in the course of academic duties or work in the course of study, research or teaching." These academic purposes include research and teaching at the University, but do not include commercialization, the reproduction of published Works, or the dissemination of Works beyond the University community. The University does not claim any share of revenues derived from Works.

"Learnware" is defined as "Software designed for teaching purposes that provides for interaction with the user, or makes use of a Multimedia Product, or both. It includes technology-enabled learning products in electronic format." As software, this is dealt with under the section regarding "Policy on Software and Inventions," which provides joint ownership between faculty and the University when created:

- a) with University assistance; or b) with the use of University equipment, facilities, or resources; or c) in the course of academic duties or work in the course of study, research, or teaching; and in the case of Learnware, in the fields in which the Inventor has been teaching and doing research in the six years preceding the date of creation of such Learnware.

There are several exceptions. For example, if Software consists in simply the electronic form of a Work, or is ancillary to a Work, then all rights are owned by the inventor. If Learnware is developed outside a faculty member's field of academic research and only incidental use has been made of University resources, then all rights are owned by the inventor. If Learnware has been specifically funded by the University and is part of a web based course, then the rights are to be apportioned in a written agreement.

¹³ Available at: <http://www.uchicago.edu/adm/spec-proj/ARCH/ucpatpol.html> (2/16/01).

¹⁴ Available at: <http://www.uchicago.edu/adm/ura/guidelines/G200/205.html> (last visited 2/23/01).

¹⁵ Available at: <http://www.columbia.edu/cu/cie/policy.html> (last visited 2/16/01).

¹⁶ Available at: http://www.columbia.edu/cu/vpaa/fhb/app/app_j.html (last visited 2/16/01).

¹⁷ Available at: <http://vm1.mcgill.ca/~inmf/http/ip/ipp010329.html> (last visited 5/14/01).

¹⁸ Available at: <http://www.mcgill.ca/vpadmin/adminhandbook/c04a.html> (last visited 5/14/01).

Inventors are not obliged to commercialize their software, and are free to disseminate it without profit, unless there is a specific agreement to the contrary or it is Learnware developed as part of a web based course specifically funded by the University. However, inventors may not commercialize inventions independently of the University, and disputes are handled through a dispute resolution process. Revenue sharing is provided for only with respect to software and inventions, and not the policy on copyright.

McGill's *Conflict of Interest Policy* has many standard features found in other conflict of interest policies. In addition, it has a section discussing the duty of loyalty owed to the University. Such a duty includes not engaging in external activities that would divide an individual's loyalty between the University and the external activity or employer. In addition, individuals may not directly compete with the University without authorization or be associated with an enterprise that "falsely implies that it is associated with or benefits from the University."

University of Melbourne

Melbourne's intellectual property policy is Statute 14.1 of the *Melbourne University Act*.¹⁹ This policy asserts that the creator of intellectual property owns all rights with respect to that property, subject to some obligations. These include the requirement that faculty must

undertake to "use all reasonable endeavours" to see that commercial exploitation is for the benefit of Australia. They must obtain the written consent of the University to use its name in connection with the commercial exploitation of the intellectual property. The University is given the "absolute discretion" to grant or withhold such consent. In addition, there are many provisions whose aim is to protect the University from any liability or obligations arising out of the exercise of these intellectual property rights. However, if there is a specified agreement regarding intellectual property, then rights are to be exercised in accordance with that agreement.

Despite this default position in favour of the creator of intellectual property, the University requires that it be granted a non-exclusive license to commercially exploit the intellectual property for the University's educational purposes, including "research, teaching and scholastic endeavours." In addition, the University requires a share in revenues from the creator's commercial exploitation of his or her intellectual property once those revenues exceed \$50,000. After revenues exceed \$50,000, the University requires reimbursement of its direct costs and then the receipt of royalties. In addition, if the University determines that the creator has not taken reasonable steps to protect and exploit his or her intellectual property then the creator must grant a license to the University to allow it to protect and exploit these rights.

¹⁹ Available at:
<http://www.unimelb.edu.au/ExtRels/ASDiv/IPPolicy/index.html> (last
 visited 15/05/01)

	Chicago	Columbia	McGill	Melbourne
University IP policy governing new instructional media	<i>New Information Technologies and Intellectual Property at the University</i> (1999) <ul style="list-style-type: none"> separate patent policy 	<i>Copyright Policy</i> (2000) <ul style="list-style-type: none"> separate policy for inventions and discoveries 	<i>Proposal For A Policy on Intellectual Property</i> (March 29, 2001) <ul style="list-style-type: none"> governs all forms of IP but distinctions made between types 	Statute 14.1 of the <i>Melbourne University Act</i> <ul style="list-style-type: none"> governs all forms of IP in the same manner
Faculty owns IP	<ul style="list-style-type: none"> de facto ownership when no commercial use or revenues generated are not substantial 	<ul style="list-style-type: none"> traditional works of authorship (e.g. textbooks) non-institutional course content and courseware, unless created with substantial use of University resources or otherwise subject to contractual obligations 	<u>Copyright</u> <ul style="list-style-type: none"> faculty owns copyright in any authored "Work" (as defined under Copyright Act) except for Software <u>Software</u> <ul style="list-style-type: none"> Learnware is defined as software Joint ownership in Software, unless Software is outside field of research, only incidental use of University facilities made, and no written agreements to the contrary when Learnware specifically funded by University, rights apportioned in a written agreement 	<ul style="list-style-type: none"> faculty owns all forms of IP in work
University owns IP	<p>"the University owns the intellectual property the faculty create at the University or with substantial aid of its facilities or its financial support"</p> <p>BUT IP rights only asserted when the revenues generated by the commercial use of new information technologies are substantial</p>	<p>(i) created with substantial use of University resources, financial support or non-faculty University personnel beyond the level of common resources provided to faculty</p> <p>(ii) created or commissioned for use by the University</p> <p>(iii) created under the terms of a sponsored project where the terms of the sponsored project require that copyright be in the name of the University</p> <ul style="list-style-type: none"> includes institutional works and courses; videotapes recordings made at University expense 	<u>Copyright:</u> <p>(a) Work results from research sponsored by a third party and written agreement determines copyright</p> <p>(b) formal agreement with the University determines copyright</p> <p>(c) Work contains software as the primary constituent</p> <u>Software:</u> <p>Joint ownership where created</p> <p>(a) with University assistance</p> <p>(b) with the use of University equipment, facilities or resources</p> <p>(c) in the course of academic duties or work</p> <p>NOTE: subject to some exceptions</p>	<ul style="list-style-type: none"> under specific agreements may take back commercial rights if faculty not taking reasonable steps to protect and exploit IP
University rights when faculty owns IP		<ul style="list-style-type: none"> faculty may not commercialize course content or courseware without University approval if faculty leaves University, can only commercialize course content or courseware if Columbia's name is not used and if Columbia is accorded the right to continue using the work for non-commercial educational activities 	<ul style="list-style-type: none"> automatically granted a license to use Work for academic purposes when created (a) with University assistance (b) with the use of University equipment, facilities or resources (c) in the course of academic duties or work University process to deal with commercialization of software 	<ul style="list-style-type: none"> non-exclusive license to commercially exploit IP for educational purposes right to receive share of revenues when revenues exceed \$50,000 if commercialize, use of University name requires written permission from University
faculty rights when university owns IP	<ul style="list-style-type: none"> policy recognizes that "scholars must be able to control their own intellectual agendas and the way their work is presented to the rest of the world" questions of control should be addressed at the outset of projects 	<p>if faculty created work, then</p> <ul style="list-style-type: none"> acknowledgement of contribution free to use it and change it for non-commercial University purposes free to use work for non-commercial purposes if leaves University, provided Columbia's name not used accommodation of wish of creator to freely distribute it to the public so long as the benefits outweigh the advantages of commercialization revenue sharing 	<ul style="list-style-type: none"> University will respect decision of Inventor not to commercialize invention or software 	<ul style="list-style-type: none"> if University takes back commercial rights the faculty still entitled to share in revenues

	Chicago	Columbia	McGill	Melbourne
revenue sharing	<ul style="list-style-type: none"> follows model developed for inventions and discoveries 	<ul style="list-style-type: none"> follows guidelines from patent policy provisions apply to both institutional and non-institutional course content and courseware 	<ul style="list-style-type: none"> faculty entitled to keep any income derived from Work revenue sharing provisions for Software 	<ul style="list-style-type: none"> after \$50,000, University entitled to recoup costs and then receive royalties
disclosure/ notification	<ul style="list-style-type: none"> early disclosure of creation to chairs or deans sooner but less formal than for discoveries and inventions 	<ul style="list-style-type: none"> prompt disclosure of copyrightable works in which University may claim rights 	<ul style="list-style-type: none"> if software or invention to be commercialized, disclosure to Office of Technology Transfer required before public disclosure commercialization plan then negotiated (exceptions include when rights wholly owned by Inventor) 	<ul style="list-style-type: none"> notice of assignment of rights and terms of commercialization prior to commercialization (does not apply to copyright in works)
use of university name	<ul style="list-style-type: none"> no specific provisions 	<ul style="list-style-type: none"> covered under <i>Statement of University Policy on Conflicts of Interest</i> (1987) – can only use in connection with outside activities w/ special permission of University also included within definition of substantial use of University resources in Copyright policy 		<ul style="list-style-type: none"> University has absolute discretion to withhold permission to the use of its name in connection with commercial exploitation of IP
administration and dispute resolution of policies	<ul style="list-style-type: none"> disputes resolved by faculty committee already in place to resolve other intellectual property disputes 	<ul style="list-style-type: none"> disputes resolved by Copyright Policy Standing Committee appeal to President 	<ul style="list-style-type: none"> disputes referred to Vice Principal (Research) Intellectual Property Appeals Committee hears appeals from decisions of VP (Research) 	<ul style="list-style-type: none"> intellectual property officer appointed by the Vice-Chancellor
conflict of interest/ commitment policy	<p><i>Outside Professional and Commercial Interests of Faculty/ Conflict of Interest</i> (1996)</p> <ul style="list-style-type: none"> focus on financial interests 	<p><i>Statement of University Policy on Conflicts of Interest</i> (1987)</p> <ul style="list-style-type: none"> outside consulting of one day per week outside teaching only with permission of University 	<p><i>Conflict of Interest Policy (1998)</i></p> <ul style="list-style-type: none"> external time commitments cannot interfere with University duties external commitments cannot create divided loyalty no unauthorized competition with University no unauthorized association of enterprise with University 	<p><i>Code of Conduct for Research</i> (Regulation R 17.1.R8)</p> <ul style="list-style-type: none"> standard conflict of interest provisions

University forums will be held at the
St. George Campus
University of Toronto at Mississauga
University of Toronto at Scarborough

For details please see:

[HTTP://WWW.UTORONTO.CA/PROVOST/TFIP](http://www.utoronto.ca/provost/tfip)

PROPOSAL FOR A NEW UNIVERSITY COPYRIGHT POLICY

**The Report of the Task Force on Intellectual Property
Relating to Instructional Media**

January, 2002

175th ANNIVERSARY

WOMEN WELCOME

The end of Hart House as a male preserve

ONE SIGNIFICANT INNOVATION was made in 1954 by Hart House Warden Joseph McCulley, who had been appointed in 1952 after Nicholas Ignatieff died suddenly. The former billiard room in the basement was transformed into the co-educational Arbor Room. The first permanent women students' washroom was installed in Hart House, and a new outside entrance was constructed in the south wall of the building.

President Smith and Chancellor Beatty and their wives cut the ceremonial tape, and roses were given to the first two hundred women to enter the room. Women could not enter until 3 o'clock in the afternoon, however; until then it was reserved for men. They could also come as guests to the 150-acre Hart House farm in the Caledon Hills, purchased in 1949. Warden McCulley, who had been head of Pickering College and then deputy commissioner of penitentiaries, wanted to keep the House itself as essentially a male preserve. So did Vincent Massey, then the governor general of Canada.

It was not until the appointment of a new warden, Arnold Wilkinson, and after Massey's death that women became full members of the House. President Claude Bissell recorded in his diary in 1968 "the possibility now, with Vincent Massey's death, of opening Hart House to

On March 15, 1827, King's College — the precursor to the University of Toronto — was granted its royal charter by King George IV. Throughout 2002, U of T is celebrating 175 years of Great Minds. As part of the celebration, The Bulletin and the news@UofT Web site will feature excerpts from The University of Toronto: A History, written by University Professor Emeritus Martin Friedland of law. His book will be published in March by the University of Toronto Press. More excerpts can be found at www.utoronto.ca.



Alumni gathering at Great Hall, Hart House, 1928

women." He appointed a committee, which so recommended, and on January 27, 1972 the university board of governors approved a recommendation that women be admitted to the House on the same terms as male students.

Women had always taken part in Hart House Theatre, which was administered separately from Hart House. The theatre, used only sporadically since 1937, was

revived after the war.

Robert Gill, an American actor with academic credentials, was brought in to run the program for students. The theatre would in large measure be used for student productions, unlike in the pre-war years, when it was used mainly by amateur and semi-professional actors.

The first production in 1947 was Shaw's Saint Joan, with Charmion King in the title role. "Her performance of Joan," the *Globe and Mail* critic wrote the following morning, "is a luminous portrayal, instinct with an inner fire of truth and spiritual beauty, and exquisite in its shadings of emotion and execution."

"We used to sell out pretty well every performance" of the student productions, said the theatre manager Jimmy Hozack. When Gill died in 1974, a memorial service in the theatre included a reading of Saint Joan by some of those who had taken part in the first production — Charmion King, David Gardner, Donald and Murray Davis, and Eric House.



IN MEMORIAM

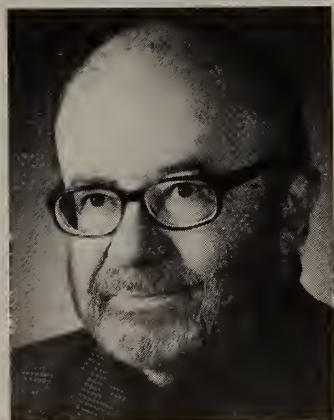
Luckyj Pioneered Ukrainian Studies

PROFESSOR EMERITUS GEORGE Luckyj of Slavic languages and literatures, a pioneer of Ukrainian studies in Canada, died Nov. 22 in Toronto of cancer at the age of 82.

Born in Yanchyn, Ukraine, Luckyj began his education there but post-secondary studies took him first to Germany and then to England. In 1947 he came to Canada to take up a position as an instructor in English literature at the University of Saskatchewan but two years later his career changed direction when he enrolled in the Russian Institute and in the Graduate Department of Slavic Languages and Literatures at Columbia University, receiving his PhD in 1953.

In 1952 Luckyj returned to Canada, beginning a career of over 30 years at U of T that saw him reshape the Department of Slavic Studies into the Department of Slavic Languages and Literatures, become its chair from 1957 to 1961 and actively promote both the study and the teaching of the cultures of many Slavic countries.

He was also instrumental in establishing a number of important professional organizations and institutions including the Ukrainian Academy of Arts



and Sciences, the Canadian Association of Slavists, the Centre for Russian and East European Studies at U of T and the Canadian Institute of Ukrainian Studies.

Prodigiously active in his own field of specialization, Ukrainian literature and culture, Luckyj's contributions include countless encyclopedia entries on major Ukrainian writers, two language

textbooks, collections of documents from critical periods of Ukrainian intellectual and literary history as well as his most influential works, *Literary Politics in the Soviet Ukraine, 1917-1924* and *Between Gogol' and Shevchenko. Polarity in the Literary Ukraine: 1798-1847*. In recognition of his stature as one of the world's leading Ukrainianists and his contribution to expanding the West's knowledge of Ukrainian literature, he was awarded the 1999 Antonovych Prize.

"His good talks and letters, which delighted so many of his friends, his teaching, which reached and inspired so many students, and his life blood, the writing through which he reached out to his widest audience, were always informed by a restless curiosity, by a modesty of approach and by an old-fashioned common sense that acknowledged the limits of traditional inquiry and inquirers without despairing of them and without violating them," said Professor Ralph Lindheim, a colleague and friend.

THE JOINT INITIATIVE IN
GERMAN AND EUROPEAN STUDIES
UNIVERSITY OF TORONTO



Symposium

The Politics of Applied Genetic Research: the German Debates in Comparative Perspective

with

Andrea Fischer

Representative to the Bundestag Green Party, and former Minister of Health in the German National Cabinet, 1998-2001

Paul Weindling

Professor of History, Wellcome Trust Research Professor, History of Medicine Oxford Brookes University

Roxanne Mykitiuk

Professor of Law, Osgoode Hall Law School

**Wednesday, February 6, 2002
9:15 AM to 2:00 PM**

Vivian and David Campbell Conference Facility
Munk Centre for International Studies
1 Devonshire Place, South House

*Members of the faculty, students, staff,
and the public are cordially invited.
Please register with e.klein@utoronto.ca*

The Hannah Seminar for the History of Medicine

SPRING 2002 PROGRAMME

Thursday, February 14, 2002

Dr. Richard Wetzell

Research Fellow

German Historical Institute

"Criminal Biology: German Medical Research on the Causes of Criminal Behaviour, 1880-1945"

Thursday, February 28, 2002

Edward M. Brown

Brown University

"Pierre Janet and Félicité Artificielle: Multiple Personality in a Nineteenth Century Guise"

Thursday, April 4, 2002

Dr. Ellen More

Professor, University of Texas-Galveston
Institute for the Medical Humanities

"Goddesses and Monsters vs. Mothers and Medicine: Images of Women Physicians in American Medicine"

THE GREAT HALL

88 College Street

4:00 - 6:00 PM

Light refreshments served.

For further information contact

Prof. Edward Shorter, 416-978-2124

PROFILE

SAFETY GUARD

USWA co-chair is trying to create an active culture of health and safety on campus

By JESSICA WHITESIDE

THE PAIN OF A PAIR OF blistered hands moulded MaryAnn Defrancis' passion for protecting the health and safety of her fellow workers.

The hands were not her own, but those of a mentally challenged caretaker at the Boston bleach factory where she'd landed her first full-time job after university.

"We realized at one point he had been given a really horrific chemical to use as a cleaning agent and that he had not been told to wear gloves — and that even if he had been told to wear gloves, somebody should have been looking out for the guy. But no one did and by the time we saw the damage, his hands were totally blistered. He had been truly damaged by this employer," says Defrancis, noting that she and a friend lost their own jobs at the non-unionized plant after helping the man file a compensation claim.

Sitting in her Cecil Street office at Local 1998 of the United Steelworkers of America (USWA), Defrancis describes that incident as an early lesson for her on the importance of health and safety. It's a lesson she's never forgotten throughout a diverse career that's taken her from teaching high school English in her native United States, to working in a U of T research lab, to administering grants and awards in the Faculty of Medicine. She's on a year's leave from the latter position to concentrate on the health and safety mandate entrusted to her by USWA; that mandate is in addition to her role as treasurer for Local 1998 which represents more than 4,000 full-time and casual administrative and technical workers at U of T.

Defrancis speaks about health and safety with the fervour of a missionary who wants others to see the



light. She is driven by the claim statistics kept by Ontario's Workplace Safety and Insurance Board — 398 worker fatalities and 345,831 injuries across the province in 1998 alone. She holds up a Steelworkers' card that describes workers' rights to refuse unsafe, unhealthy work. Success, says Defrancis, would be to have "one of these in every member's hand, knowledge of what it means in every worker's head and desire to make it work in every worker's heart."

She aims to ensure that the USWA members who sit on about 40 of the university's joint health and safety committees receive training and understand the law around health and safety. Mandated by the Ministry of Labour, the committees bring management and workers together to address health and safety in specific buildings — no easy task in a workplace as diverse as U of T where there are

workers dealing with just about every designated substance except coke oven emissions — in addition to issues such as ergonomics and personal safety.

"We're constantly looking around to see if we need more committees because this is where you get your representation, this is where you go with your concerns and this would be the group that is responsible for inspecting your workplace to assure that you're getting to work in a healthy and safe environment," she says.

One incident she believes illustrates the importance of an active health and safety culture was the decommissioning of the university's Slowpoke nuclear reactor in 2000 during which shields removed from the reactor gave off more radiation than anticipated prior to shipping. In February 2001 Defrancis and

Rose da Silva, her co-chair on Local 1998's health and safety committee, appeared before a Canadian Nuclear Safety Commission hearing to make recommendations for when aging reactors elsewhere are decommissioned.

Her passion for health and safety is not limited to U of T. As part of USWA's young worker awareness program, she speaks to high school students about their health and safety rights in the workplace. Last week she and da Silva travelled to Port Colborne, Ont., once home to a nickel refinery, to participate with other Steelworkers in an occupational disease clinic.

Worrying about worker health and safety isn't something Defrancis can leave behind at the office; scenarios and solutions pursue her into sometimes sleepless nights. "It's part of me," she says. "I find it important, I find it useful, and compelling."

DAVID STREET

Three public lectures sponsored by the
Emilio Goggio Chair in Italian Studies
and the
Department of History
University of Toronto

Professor Luca CODIGNOLA
(University of Genoa)

**Pre-Confederation Canada from Afar:
A North Atlantic View**

Tuesday, February 5th, 2002
4:00 p.m. - 6:00 p.m.

Madden Hall, Carr Hall, 100 St. Joseph St.

**Europe and the Atlantic World in the
16th Century: A New Mediterranean Sea?**

Thursday, February 7th, 2002
4:00 p.m. - 6:00 p.m.
Alumni Hall, 91 Charles St. W., Victoria College
Co-sponsored by the Centre for
Reformation & Renaissance Studies

**Italians in the North Atlantic World
before the Great Migrations:
Navigators, Missionaries,
Adventurers, Travellers**

Tuesday, February 12th, 2002
4:00 p.m. - 6:00 p.m.
Alumni Hall, 91 Charles St. W., Victoria College

For further information, please call 416-926-2345
Light refreshments will be served.
Everyone is welcome



GOVERNING COUNCIL ELECTION 2002 Call for nominations

Nominations open:

9:00 a.m. Tuesday January 29, 2002

Nominations close:

12 noon Monday February 11, 2002

Positions Available:

- 4 full-time undergraduate students
- 2 part-time undergraduate students
- 2 graduate students

Teaching Staff:

- 5 seats (1 by-election)
- UT Mississauga
- Arts & Science (Anthropology, Economics, Geography, History, Philosophy, Political Science, Sociology, Psychology and Religious Studies)
- Architecture, Landscape, and Design; Forestry; Information Studies; Law; Rotman School of Management; Music and Social Work
- OISE/UT
- By election:
- Dentistry, Nursing, Pharmacy and Physical Education and Health

The membership of the Governing Council should reflect the diversity of the University. Nominations are, therefore, encouraged of a wide variety of individuals.

Nomination forms:

Available starting at 9 a.m. January 29, 2002
on the Governing Council web-site:
www.utoronto.ca/govcnci/

And from:

- Office of the Governing Council, Room 106, Simcoe Hall
- Registrar's Office, UTM • Registrar's Office, UTSC

Work of the Governing Council:

The Governing Council is composed of 50 members, including the President, Chancellor, 16 government appointees, 12 teaching staff, 8 alumni, 8 students, 2 administrative staff and 2 presidential appointees. As the senior governing body, it oversees the academic, business and student affairs of the University. Decisions approved by the Governing Council affect all members of the University community.

The Council and its Boards are responsible for approving:

- Academic and incidental fees
- Establishment of new academic programs
- Admissions and awards policies
- University's budget and financial matters
- Campus planning and capital projects
- Personnel policies
- Campus and student services
- Appointment of senior administrators

Questions?

Contact the Chief Returning Officer at 416-978-8427 or c.oke@utoronto.ca

COMMENTARY

PRISONERS OF WORDS?

Al-Qaeda detainees have a legally novel status

By Ed Morgan

THE UNITED STATES HAS ANNOUNCED THAT the Al-Qaeda detainees to be housed at its naval base in Guantanamo Bay, Cuba, are not "prisoners of war," but rather are "illegal combatants." The government of Canada, for its part, has made it clear that the Geneva Convention terminology "prisoners of war" will apply to any captives that come into the hands of Canadian forces operating in Afghanistan. Is there more than just a rhetorical difference, or are the two governments prisoners of words?

Human rights activists, and even some U.S. allies like the British foreign minister, have voiced concern about the possible mistreatment of these prisoners by their military jailers. The fear is that by specifically rejecting the label applied to wartime prisoners under the Geneva Convention, the United States is also rejecting the basic humanitarian standards of treatment imposed by that convention on the way prisoners are to be treated.

The International Red Cross has now inspected the Guantanamo facilities and will determine whether the allegations of mistreatment are factually true. Initial reports are at best ambivalent. Alarm has been sounded over prisoners being bound and the lack of adequate shelter at the detention compound; but even the Red Cross representatives have so far been unmoved by the notion of prisoners shackled and handcuffed for transport or the possibility of exposure to the Caribbean elements. Whichever way the evidence points, however, this is not a normative judgment but an empirical one and the Red Cross is certainly the right body to make the assessment.

On the normative front, it seems unlikely that the United States, having gone to war in the wake of the Sept. 11 attacks, fashioned its unique terminology for the Al-Qaeda captives out of fear of being sued for mistreatment. As British Prime Minister Tony Blair pointed out, and as the American secretary of defence, Donald Rumsfeld, has all but acknowledged, nations have an obligation under customary international law to treat prisoners in a humane way regardless of whether the Geneva Convention and its

specific terminology applies. Hiding behind a new label for these prisoners will not help their captors avoid censure if the prison conditions are truly abusive.

What seems more likely to be moving U.S. decision-makers is the issue of what to do with the Al-Qaeda captives once the questions about their prison conditions are resolved. Prisoners of war, as that term is understood by international lawyers, are held only to remove them from active combat. To achieve this status they have done nothing more than to fight in their national armed forces. While nothing prevents a prisoner of war from being tried for war crimes if the circumstances warrant it, typically these prisoners are returned to their country without further condemnation at the conclusion of the hostilities. They are soldiers, not criminals.

The United States has made it clear that it considers the current group of detainees to be something other than mere soldiers for a foreign nation. Indeed, Al-Qaeda itself is organized in a way that would make the standard

categorization improbable. Instead of returning the prisoners to their countries of origin, the U.S. military plans to conclude its expedition to Afghanistan with the conduct of terrorism trials for those that fought on behalf of an organization that it views (and that views itself) as a non-state affiliated, international network committed to violent action.

It is the desire for trials, and not the desire for mistreatment, that is behind the unusual term "illegal combatant," coined for the Guantanamo-based prisoners. Every prisoner — whether a "prisoner of war" in Stalag 13, an "illegal combatant" at the Guantanamo base or an ordinary inmate at San Quentin — has the right to humane imprisonment. But while the United States cannot avoid humanitarian standards by avoiding the Geneva Convention terminology, it is anxious to avoid the connotation of innocence attached to the more standard "prisoner of war" label.

Unlike the Second World War or even Vietnam-era war criminals, which the U.S. to its credit has prosecuted with relative vigour, the present detainees are not necessarily accused of

violating the fundamental rules of armed engagement. Rather, they are to be tried for the very act of soldiering for what is accused of being an illegal international (rather than national) cause. It is not the method of fighting that will be the subject of these trials, but the fight itself.

To accomplish its goal of punishing rather than freeing these captives as the warfare winds down, the U.S. has announced the establishment of military tribunals designed to carry out the large scale adjudicative task. This suggests that the ordinary U.S. courts are not up to the task that the military prosecutors have in mind, despite the fact that the federal court system seems to be having little trouble handling those Al-Qaeda members arrested within the United States under the regular criminal law or the newly minted anti-terrorism legislation. But that, of course, is another question for another article.

Ed Morgan teaches international law at the University of Toronto.

MIKE CONSTABLE



GOVERNING COUNCIL ELECTION 2002 Call for nominations ACADEMIC BOARD

Nominations open:

9:00 a.m. Tuesday January 29, 2002

Nominations close:

12 noon Monday February 11, 2002

Positions Available:

Librarian:

- 1 seat

Teaching Staff:

- 15 seats plus by-election
- 1 seat: Applied Science and Engineering
- 4 seats: Arts and Science
- 1 seat: Scarborough
- 1 seat: Erindale
- 1 seat: Information Studies
- 1 seat: Law
- 4 seats: Medicine
- 1 seat: Nursing
- 1 seat: OISE/UT

By election:

- 2 seats: Arts and Science
- 1 seat Librarian

The membership of the Governing Council should reflect the diversity of the University. Nominations are, therefore, encouraged of a wide variety of individuals.

Nomination forms:

Available starting at 9 a.m. January 29, 2002

on the Governing Council web-site:

www.utoronto.ca/govcnc/

And from:

- Office of the Governing Council, Room 106, Simcoe Hall
- Registrar's Office, UTM • Registrar's Office, UTSC

Work of the Academic Board:

The Academic Board of the Governing Council is composed of 120 members, 48 of whom are elected teaching staff.

The Board is responsible for approving:

- Admissions and awards policies
- Establishment of new academic programs
- Establishment, termination or restructuring of academic units
- Academic appointments policy
- Budget guidelines and annual budgets
- Capital plans and projects
- Curriculum and academic regulations
- Academic discipline
- Research policy

Questions?

Contact the Chief Returning Officer at 416-978-8427 or c.oke@utoronto.ca

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LETTERS

TIME TO MOVE ON WHEN CASE RESOLVED

The Ontario Superior Court held recently that the dean of law acted in a patently unreasonable manner when he confused a denial with an admission, assuming a jurisdiction he did not have to discipline a student. The decision of the dean not to proceed with the case of Roxanne Shank is the right one. What is not right is the way this affair was handled by the university. Unlike Vice-Provost Vivek Goel and the dean, we do not believe it is yet time to "move on." This affair has a number of unresolved and disturbing aspects.

The university consistently stated that it was "proud" of the way the affair was handled. Press releases concentrated almost exclusively on the part of the judgment that the university liked and ignored the central finding of patent unreasonableness. This kind of "spin" may be acceptable in some quarters but we expect something better than what is tantamount to a misrepresentation from our university. Press releases also stated that "the court concluded that she had not explicitly admitted an offence." This is not what the court concluded. The court made it clear that she had denied the offence.



We also think it remarkable that the dean's lawyer referred to the error as a "technical deficiency" in the press. Confusing an admission and a denial are about as "technical" as not having any evidence on which to base a judgment! Finally, Vice-Provost Goel stated that "our view is that carelessness should not be an excuse." That was the very issue for the university tribunal to decide. Vice-provosts should not convict students in the press.

This imbroglio is the latest in a series of issues that have embarrassed the university, our university, and at the root of many of them is the university administrators' apparent belief that they are not bound by the university procedures or responsible for upholding key values such as academic freedom. The

Réaume case from last year, for example, involved both an affront to academic freedom and a failure to follow the process laid down for cases of alleged faculty wrongdoing. There is a broader lesson to be learned but no evidence that senior administrators are paying attention.

More particularly, justice has not yet been done in Ms Shank's case. We have a student in her mid-40s, an aboriginal woman with two children making considerable sacrifices to return to school. She was accused of deliberately misrepresenting her grades, and denied that accusation. She was suspended despite that denial, a suspension clearly out of line with the process laid down in the Code of Conduct. She had to spend a lot of money she did not have in getting the suspension lifted. At that point the university surely owed her an apology and it ought to be paying all her costs. Why should she have to spend a penny on a legal lesson she did not need? Instead of doing the right thing the university tells us it is proud of what happened, spins the court's ruling and convicts her in the press.

We should move on when the case is fully resolved, not when it

suits administrators to do so because their spin hasn't worked.

HUDSON JANISCH
JIM PHILLIPS
FACULTY OF LAW

REVAMPED BULLETIN FIRST RATE

I love the new design of *The Bulletin*. A journalism graduate and a current part-time student at the Ontario College of Art & Design, I have an appreciation for design and graphics and found the style of the past *Bulletin* somewhat outdated and hard to read. The new *Bulletin* is cleaner, more sophisticated and up-to-date with today's graphics industry. I love the use of colour on the front and back and the new banner with the new typeface and design. I also really like the blue at the bottom of the front page and I think having the Web site there is much more eye catching to readers. I believe the type is a little larger in the columns and, therefore, easier to read. As well, I like the new typefaces for the story headings and columns. I'm also a great believer in little sketches adding to the sophistication and interest of newsletters. Truly, this is a feast for the eyes and the person responsible for this superb

revamping of *The Bulletin* should be highly commended for having produced a first rate, professionally designed paper.

MARGARET HEWER
ELECTRICAL AND COMPUTER
ENGINEERING



NEW BULLETIN LOOK PLEASING

I am writing to let you know just how much I appreciate *The Bulletin's* new layout and design, both of which are very user-friendly and esthetically pleasing. The use of white space, two-tone background and colour are especially fine. I commend the editors on their efforts and skill at visually enhancing the readers' pleasure while continuing to provide *The Bulletin's* rich breadth and depth of informative content.

ANNE-MARIE BRINSMEAD
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ALINA PAYNE
Department of Fine Art

Wednesday, 6 February 2002, at 4:15 p.m.
University College, Room 140

To be followed by a reception

ON THE OTHER HAND

BY NICHOLAS PASHLEY

A Time for IT

I SELDOM COMMENT ON ARCHITECTURAL issues in this space. Let's face it, I'm no authority on the subject even though I walk past the Faculty of Architecture, Landscape, and Design on College Street a couple of times a day. Alone among Toronto writers alive today, I have not expressed an opinion on the controversial Graduate House at Harbord and Spadina. I'll wait till they get it finished.

Down at my end of campus we're watching the Bahen Centre for Information Technology rise all around us. And I do mean *all* around us. Practically everywhere you look, there's another bit of it. And it's always different. From the north it's square and high and imposing. From the east it's a series of boxes, some of them growing out of the old *Varsity* building like a sort of brick-and-concrete-and-glass airbag gone mad. From College Street it's different again, showing a pleasing roundness to its backside. All in all, it seems to have grown in an almost organic way, slowly filling every bit of available space in the block. I'm not sure I haven't felt the Koffler Student Services Centre move a couple of times, nudged aside by the newcomer. Up at Pashley Towers we've got a cat like that.

And I'm not confident I have a grip on information technology. I assume it's what we used to call computers, only information technology sounds grander. My guess is that the Bahen Centre, once it's up and running, will train the people who write the hectoring messages that turn up on your computer screen at times of stress. You know the sort of thing I mean. Your screen freezes up entirely for *no good reason*, forcing you to reboot. During the interminable wait, while your computer scans itself to see if you've done it any harm, a scolding notice appears before you, pointing out that any damage will be your fault



because you didn't turn the machine off properly. *As if you had any choice!* On a quiet day I'm convinced I can hear Bill Gates laughing.

My hope — and you can call me naive — is that by training Canadians to compose these messages, we might get kinder, gentler treatment from our computers with perhaps even a muted — though not legally binding — apology for having wasted the last 20 minutes of our lives.

Time, of course, is money and so much more. Time is what we don't have any more and time is my one complaint about the Bahen Centre for Information Technology. I walk to work — being famously pedestrian in my tastes — and my route used to take me diagonally through the now-extinct parking lot behind 215 Huron St. and into the back door of the U of T Bookstore. Ever since construction began I've had to walk down Huron to College then left to the store. I calculate that this extra distance adds three minutes to my journey. Big deal, you say, but don't forget that I have to go home after work as well. And don't even raise the prospect of lunch. Who has time to get to the GSU Pub any more?

Six minutes a day soon adds up. I reckon that in 2001 alone I lost 24 hours of my life to the Bahen Centre and that doesn't even count a few weekends and the occasional lunch. That's a full day of Pashley existence. Gone forever. Irrecoverable. And how long has this been going on? More than a couple of years now. I could have learned a foreign language in the time I've lost to the Bahen Centre. I could have read *War and Peace*. Heck, I could practically have written *War and Peace*. I could have cleaned out my den. Still, I suppose if it leads to friendlier computer messages it may have been worth it, though my wife would rather I cleaned out the den.

CLASSIFIED ADVERTISEMENTS

ACCOMMODATION

Rentals Available — Metro & Area

Attention U of T visitors. Luxury, bright, furnished apartments available home away from home. Includes your every need: walkout to sundeck, appliances, linens, dishes, TV/A/C, parking, laundry. 10 minutes from U of T and hospitals. 416-275-3736.

Charming downtown Victorian, ground floor, 12-ft. ceilings, fully furnished 1-bedroom; cable TV/VCR, private entrance, patio. Available January 1, 2001. Check Web site www3.sympatico.ca/kgalvez or call Kim at 416-359-0380.

Pape/Danforth. Charming detached bungalow. Renovated. Open concept with skylight. One bedroom, one bathroom and study in the finished basement. Furnished. Flower garden. Parking. Quiet. 7-min. walk to subway. Washer/Dryer. Available March 1. No smoking. No dogs. \$1,450 plus utilities. renooy@hotmail.com

Dufferin/Bloor. Beautiful 4-bedroom renovated house. Large kitchen, hardwood, fireplace, central vac, deck, garden, parking. Steps to subway, park, shopping, U of T. Furnished or unfurnished. References. \$2,300 +. 416-537-9088, strongd@sympatico.ca

Cabbagetown Victorian house January 1, 2002 to February 28, 2003. Fully furnished/equipped, 3 bedrooms, renovated, \$1,995 plus heat, hydro, cable and phone. Linda Sully, Associate Broker, RHP/Johnston & Daniel. 416-489-2121 or linda@lindasully.com

Furnished bachelor in a house in quiet downtown neighbourhood close to University of Toronto. Available for short-term rental (two weeks minimum). \$160/week. Tel: 416-968-7763, e-mail: bohum@sympatico.ca

Fully furnished house. 3 bedrooms, finished basement. Close to High Park, Bloor West Village, TTC. 20 minutes to U of T or airport. August 2002 to May 2003. \$2,000 monthly plus utilities. 416-604-9671.

High Park/Bloor. Charming two-storey furnished apartment. Fully equipped. 2 bedrooms, 1 1/2 bathrooms, hardwood floors. Large balcony facing west. Short-term rental. No pets. \$1,400 a month inclusive. 416-763-3899.

Queen/McCaul. 2-bedroom furnished condo, 5 appliances, hardwood floors, granite countertops, breakfast bar. Located in quiet courtyard, five-minute walk to St. Patrick subway. \$1,650/month includes utilities, large storage locker, exercise room, 24-hour security. Parking available. Non-smokers only. Available March 1, 2002. 416-348-9265.

Summer rental. Bachelor apartment with a large solarium in a luxury condominium building near Bay-Wellesley. Fully furnished including phone, linens, dishes, etc. Seven-minute walk from U of T campus. Smoking and pets not allowed. Rent (including utilities and cable): \$1,050/month. call 905-335-3564 (in Burlington, Ont.).

Bloor/Ossington area. Comfortable, cozy, colourful, fully furnished 3-bedroom, 2-bath. Fireplace, garage, garden, oak floors, large kitchen, all inclusive. March 1 — September 30. \$1,900/month. Contact Susan Bazilli, 416-516-3108, sbazilli@look.ca

Furnished room available immediately for rent at \$500 per month. Very quiet, 2 minutes from subway and 12 minutes from U of T. For further information, please call (w) 416-967-5900 or (h) 416-462-9367 after 6 p.m.

Downtown. New condo for rent. Furnished. 2 bedrooms, 2 baths, 5 appliances. Phone and cable included.

\$1,500/month. Available immediately. Phone Bruce, 416-699-8465 or 416-691-7150.

High Park Blvd. Beautiful large 2+ bedroom, 1,400 sq. ft., hardwood floors, fireplace, french doors, laundry, parking, Jacuzzi, dishwasher, no pets/smokers. Close to TTC and all amenities. Available immediately, \$1,650 +, 416-626-9953.

Bright furnished suite in beautiful Victorian house on Brunswick Avenue near U of T. Suit one person, non-smoker. \$1,000/month. Available March 15, April 1. 416-920-3753.

College/Dufferin. Charming 2-storey detached house, 3 bedrooms, 4 appliances, parking, yard, walk to subway/streetcar, amenities. Available mid-March or April 1. \$1,800/month + utilities. No pets/smokers. 416-533-9837, sandi.amaral@uhn.on.ca

Kensington. Furnished main floor of Victorian house close to U of T with eat-in kitchen, laundry en suite, hardwood floors, fireplace, deck, for one quiet, non-smoker. Sublet for month of February. By the week or month. 416-593-0507 or natfrum@eol.ca

Downtown Toronto, Church/Bloor. Summer 2002 rental. 10th-floor, large one-bedroom condo; small luxury building; two bathrooms, solarium (with sofa bed), laundry, cable, fully furnished and equipped. 15-minute walk to university, 5 minutes to TTC. Sunny spacious home available during research leave. 24/7 concierge and security. Pool, rooftop garden and barbecue. No pets, no smoking. Weekly/monthly rates. 416-972-9827, harriet.sonne@utoronto.ca

College & St. George near U of T. Huge 9-room house, duplex basement & backyard. Could be 3 units or huge family home (live in, rent to others). Quiet responsible people. \$3,500 monthly. Utilities negotiable. 416-783-7232.

Danforth Road/Eglinton. Room available in new townhouse. Share kitchen & bathroom, laundry included. On bus route, close to GO, parking. Non-smokers, no pets. \$700/month plus utilities. Available March 1 — September (flexible). Phone 416-686-6536

Avenue Road/Dupont. Half sabbatical 3-bedroom house, just renovated. Fully furnished. Air conditioned. 4 bathrooms. Garden. Double garage. Steps from public transportation. 20-minute walk to University of Toronto. No pets, no smoking. Available July — December 2002. \$2,800 + utilities. Call 416-978-8467. E-mail marchand@geog.utoronto.ca

High Park. Exceptional 2-storey apartment in meticulous condition. 2 bedrooms, den, gas fireplace, 2 bathrooms, hardwood floors. Laundry, backyard, garden & garage. Close to College streetcar. January 2002. Furnishing optional. \$1,900 all inclusive. 416-533-7724 or dopolaki@sympatico.ca

Beautiful view of High Park, 25th floor, 3-bedroom apartment with two south-facing balconies overlooking High Park. Hardwood floors throughout, master bedroom with own bathroom. Building is directly across from subway. Available March 1 — Aug 31. \$1,995/month, including utilities. Call 416-763-1327.

Bloor West Village. Fully furnished sabbatical rental July 2002 — August 2003 (negotiable). Large 3-bedroom detached house with study, family room, A/C, 2 bathrooms, large yard, off-street parking on quiet street. Close to great schools, High Park. Thirty minutes to U of T by subway or bike. Children welcome. \$2,100 +. 416-760-8176. thomson@mie.utoronto.ca

Queen-Leslie. Newly renovated, bright, luxury 1-bedroom apartment. 1st-floor laundry, dishwasher, open concept, 24-hour Queen car. Quiet. No smokers/pets. Suit professor. Feb 1. \$1,200 inclusive. 416-698-9343.

Annex/Admiral Road. 1-bedroom apartment on 3rd floor of quiet home. Cathedral ceilings, wooden beams, white stucco interior. Air-conditioned, all new appliances. Suit mature single academic/professional. \$1,400/month includes utilities. Short walk to U of T. No pets. 416-924-8976, leave message.

Jarvis/Gerrard. Fully furnished 1- and 2-bedroom luxury condos with on-site laundry, gym and underground parking in renovated building. Minutes from College streetcar/subway. Ideal for visiting faculty or mature students. Available immediately. 416-979-0028.

Rentals Required

Windsor sabbaticant seeks quiet, unfurnished 1-2 bedroom apartment in Toronto from June 1, 2002 to July 31, 2003 (\$1,250 per month maximum). Call 519-252-2236 or e-mail dcook@uwindsor.ca

Quiet, non-smoking academic couple seeks apartment or house near the university for the teaching year 2002-2003 (August 2002 — May 2003) negotiable. One or two bedrooms, study, furnished. jtully@uvic.ca, 1-250-381-0927.

Responsible academic couple from abroad require house or apartment June — mid-July. Non-smoking, excellent U of T references. E-mail mackel1999@aol.com

U of T downtown campus. Seeking furnished house starting April 1 to end of June or July 2002. Family of four and two dogs. E-mail joel@finsec.com

Shared

Cabbagetown. Share large 2-bedroom apartment with professional. A/C, parking, large floor-to-ceiling windows, large yard with garden, close to Riverdale Park, \$770 inclusive. Available immediately. Call Eric 416-964-7918.

Overseas

France, between Boreaux and La Rochelle. Renovated stone farmhouse, weekly/monthly rates. 2-3 bedrooms. Region known for beaches, markets, cognac, oysters, Bordeaux wines, Roman and romanesque architecture. E-mail black.sun@wanadoo.fr

France, Beautifully restored mas (farmhouse) in charming French village, Cote de Rhône, south of France. Available June and August. Weekly/monthly rates. E-mail gcampb3195@aol.com

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PSYCHOANALYTIC PSYCHOTHERAPY with a registered psychologist. Dr. June Higgins, Medical Arts Building, 170 St. George Street (Bloor and St. George). 416-928-3640.

Psychologist providing individual and couple therapy. Work stress, anxiety, depression, personal and relationship concerns. U of T health plan covers cost. Dr. Sarah Maddocks, Registered Psychologist, 114 Maitland Street Wellesley & Jarvis). 416-972-1935, ext. 3321.

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Psychotherapy for personal and relationship issues. Individual, group and couple therapy. U of T extended health plan provides coverage. For a consultation call Dr. Heather A. White, Psychologist, 416-535-9432, 140 Albany Avenue (Bathurst/Bloor).

Dr. Will Cupchik, Clinical Psychologist. Thirty-five years' counselling experience. Adult, couple, teenage and intergenerational (i.e., adult child and his/her parent) psychotherapies. Self-esteem. Depression. Anger. Loss. Worry. Stress management. Coaching. Heart-healthy lifestyle changes. U of T extended health care benefits partially or totally covers fees. 250 St. Clair Avenue West. 416-928-2262.

Evelyn Sommers, Ph.D., Psychologist, provides psychotherapy and counselling for individuals and couples from age 17. Covered under U of T benefits. Yonge and Bloor. 416-413-1098 or e-mail for information package, eks@passport.ca

Dr. Carol Musselman, Registered Psychologist. Psychotherapy for depression, anxiety, trauma and other mental health needs, relationship problems, issues related to gender, sexual orientation, disability. Day and evening appointments. Covered by extended health plans. 489 College Street, Suite 206. 416-568-1100, cmusselman@oise.utoronto.ca

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University Lodge. Masonic Lodge meets monthly on 2nd and 4th Thursdays. For information or to attend meetings contact 416-467-1824 or scott.bukovac@utoronto.ca

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A cheque or money order payable to **University of Toronto** must accompany your ad. Ads must be submitted in writing, 10 days before *The Bulletin* publication date, to **Mavic Ignacio-Palanca, Department of Public Affairs, 21 King's College Circle, Toronto, Ontario M5S 3J3.**

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EVENTS



LECTURES

Racism and the Law: The Canadian Experience.

TUESDAY, JANUARY 29

Beverley McLachlin, chief justice of Canada; 2002 D.B. Goodman memorial lecture. Bennett Lecture Hall, Flavelle House, 78 Queen's Park. 5 p.m. Law

"Jewish Ethics" as an Argument in the Public Debate Over the Use of Power by Israel.

TUESDAY, JANUARY 29

Prof. Ehud Luz, Haifa University; Allan Bloom/David Lipson lecture. 179 University College. 5:30 to 7:30 p.m. Political Science

Hoodlums and Intellectuals: From the Revisionists to the Post-Zionists — Zionism's Critics From the Right.

WEDNESDAY, JANUARY 30

Eran Kaplan, 2001-2002 Ray D. Wolfe Fellow. Croft Chapter House. 4 p.m. Jewish Studies

A Grammaticalization Approach to the Biblical Hebrew Verbal System.

THURSDAY, JANUARY 31

John Cook, University of Wisconsin; candidate for assistant professorship in biblical Hebrew language and literature. 200B Bancroft Hall, 4 Bancroft Ave. 3 p.m. Near & Middle Eastern Civilizations

"Henry the Navigator" vs. Infante Dom Henrique of Portugal: Attempting an histoire totale Biography.

THURSDAY, JANUARY 31

Prof. Ivana Elbl, Trent University. Senior Common Room, Burwash Hall, Victoria College. 4 p.m. Reformation & Renaissance Studies and Toronto Renaissance & Reformation Colloquium

Genetics of Glial Cell Development in the Vertebrate CNS.

THURSDAY, JANUARY 31

Prof. Charles Stiles, Harvard Medical School; annual Arthur & Sonia Labatt Brain Tour Research Centre academic lecture. Auditorium, Hospital for Sick Children. 4 p.m.

Extrasolar Planetary Systems.

SUNDAY, FEBRUARY 3

Sara Seager, School of Natural Sciences, Princeton. Auditorium, Medical Sciences Building. 3 p.m. Royal Canadian Institute and Royal Astronomical Society of Canada

Pre-Confederation Canada From Afar:

A North Atlantic View.

TUESDAY, FEBRUARY 5

Prof. Luca Codignola, University of Genoa. Madden Hall, Carr Hall, 100 St. Joseph St. 4 to 6 p.m. Emilio Goggio Chair in Italian Studies and History

Parent Text of Lucian in Ezekiel?

WEDNESDAY, FEBRUARY 6

Prof. Em. John Wevers, Near and Middle Eastern civilizations. 200B Bancroft Hall, 4 Bancroft Ave. 10 a.m. Near & Middle Eastern Civilizations

Text and Image in Architectural Books of the Renaissance.

WEDNESDAY, FEBRUARY 6

Prof. Alina Payne, fine art. 140

University College. 4:15 p.m. Toronto Centre for the Book and Fine Art

Europe and the Atlantic World in the 16th Century: A New Mediterranean Sea?

THURSDAY, FEBRUARY 7

Prof. Luca Codignola, University of Genoa. Alumni Hall, Victoria College, 91 Charles St. W. 4 to 6 p.m. Emilio Goggio Chair in Italian Studies, History and Reformation & Renaissance Studies



Pillars of Heaven: Columnar Architecture in Ancient Egypt.

FRIDAY, FEBRUARY 8

Laura Chinery, University of Toronto. 142 Earth Sciences Centre. 6:30 p.m. Society for the Study of Egyptian Antiquities

From Meteorites to Megacities: Ontario's Geological Past.

SUNDAY, FEBRUARY 10

Prof. Nick Eyles, geology. Auditorium, Medical Sciences Building. 3 p.m. Royal Canadian Institute and Toronto Field Naturalists

French Foreign Policy After September 11.

MONDAY, FEBRUARY 11

Stéphane Romatet, acting ambassador of France to Canada. 208N Munk Centre for International Studies. 2 to 4 p.m. York-U of T Institute of European Studies

Italians in the North Atlantic World Before the Great Migrations: Navigators, Missionaries, Adventurers, Travellers.

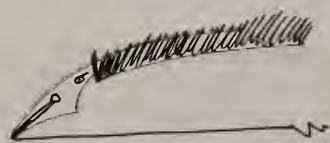
TUESDAY, FEBRUARY 12

Prof. Luca Codignola, University of Genoa. Alumni Hall, Victoria College, 91 Charles St. W. 4 to 6 p.m. Emilio Goggio Chair in Italian Studies and History

Religion vs. Sexual Orientation: A Clash of Human rights?

TUESDAY, FEBRUARY 12

Robert Wintemute, King's College London; 2002 Bertha Wilson lecture. Bennett Lecture Hall, Flavelle House, 78 Queen's Park. 5 p.m. Law



COLLOQUIA

Humanism and Method in Anatomy in the 17th Century.

WEDNESDAY, JANUARY 30

Prof. John Heng, University of Western Ontario. 323 Old Victoria College. 4 p.m. History & Philosophy of Science & Technology

The MAESTRO Instrument: UV-Visible Spectroscopy on SciSat-1 — The Atmospheric Chemistry Experiment (ACE).

THURSDAY, JANUARY 31

C.T. McElroy, Meteorological Service of Canada. 102 McLennan Physical Laboratories. 4:10 p.m. Physics

Of Masks and Nostalgia: Dissimulation, Transformation and Truth in the Enlightenment.

WEDNESDAY, FEBRUARY 6

Prof. Dorinda Outram, University of Rochester. 323 Old Victoria College. 4 p.m. History & Philosophy of Science & Technology

SEMINARS

Organization and Management of Hope-Healing Communities in Contemporary Africa.

WEDNESDAY, JANUARY 30

Prof. Augustine Nwoye, visiting professor from Kenya. 7-162 OISE/UT, 252 Bloor St. W. Noon to 1:30 p.m. Adult Education, Community Development & Counselling Psychology, OISE/UT

Molecular and Genetic Analysis of Synaptic Vesicle Function in C. elegans: What Makes the Worm Squirm.

WEDNESDAY, JANUARY 30

Dr. Jim Rand, Oklahoma Medical Research Foundation, Oklahoma City. 968 Mt. Sinai Hospital. Noon. Samuel Lunenfeld Research Institute

Fair Division of the Surplus From Collaboration in Markets for Intellectual Property.

WEDNESDAY, JANUARY 30

Prof. Michael Meurer, Boston University Law School; law and economics workshop series. Solarium, Faculty of Law, 84 Queen's Park. 12:10 to 2 p.m. Law

Structure and Dynamics in Block Copolymer Liquids.

WEDNESDAY, JANUARY 30

Prof. Tim Lodge, University of Minnesota. 116 Wallberg Building. 12:30 p.m. Chemical Engineering & Applied Chemistry



Developmental Roles of Platelet-Derived Growth Factors.

THURSDAY, JANUARY 31

Prof. Christer Betsholtz, University of Goteborg, Sweden. 968 Mt. Sinai Hospital. Noon. Samuel Lunenfeld Research Institute

Pine Trees, Comas and Migraines: Asymptotic Regression in Time.

THURSDAY, JANUARY 31

Prof. Georges Monette, York University. Ste. 106, 222 College St. Noon to 1:30 p.m. Human Development, Life Course & Aging

Canadian Gulf War Veterans' Health and Post-Conflict Symptomatology.

THURSDAY, JANUARY 31

Prof. Lesbia Smith, public health sciences. 113 Koffler Institute for Pharmacy Management. 4 p.m. Environmental Studies and Gage Occupational & Environmental Health Unit

Latent Maximum Entropy Principle: A Unified Probabilistic Framework for Statistical Language Modelling.

THURSDAY, JANUARY 31

Prof. Shao Jun Wang, University of Waterloo. 1084 Sidney Smith Hall. 4 p.m. Statistics

The Political Origins of the Argentine Meltdown.

THURSDAY, JANUARY 31

Prof. Judith Teichman, political science. 108N Munk Centre for International Studies. 4 to 6 p.m. Political Science

The Social Contract in Canada: What Can We Learn From the Voluntary Sector?

FRIDAY, FEBRUARY 1

Prof. Paul Reed, Carleton University. 208N Munk Centre for International Studies. 2 to 4 p.m. Political Science

The Hong Kong Young Designers Context and World Fashion.

TUESDAY, FEBRUARY 5

Lise Skov, Lund University, Sweden. 208N Munk Centre for International Studies. 10 a.m. to noon. School of Graduate Studies and Asian Institute

Women, War, Diaspora and Learning:

Emerging Theoretical and Methodological Challenges.

WEDNESDAY, FEBRUARY 6

Shahrazad Mojab, Elinor Bray-Collins, Naomi Binder Wall and Rachel Gorman, adult education, community development and counselling psychology. 7-162 OISE/UT, 252 Bloor St. W. Noon to 1:30 p.m. Adult Education, Community Development & Counselling Psychology

Attachment-Dependent Cell Signalling in Culture on Different Surfaces.

WEDNESDAY, FEBRUARY 6

Prof. David Grainger, Colorado State University. 116 Wallberg Building. 12:30 p.m. Chemical Engineering & Applied Chemistry

Water and Ecosystems: Human Health — a Priority!

WEDNESDAY, FEBRUARY 6

Ecohealth, Ecocitizenship and Water: A Global Issue, Prof. Louise Vandelac, Université du Québec à Montréal; Water Pollution and Ecosystem Approaches to Human Health in the Bujo Region (Southwestern Ivory Coast), Prof. Pascal Houénou, University of Abobo-Adjamé, Africa. 142 Earth Sciences Centre. 4 p.m. Environmental Studies and Women's and Gender Studies

"A Time for Me": How Does This Social Educational Health Promotional Model Impact on Moderately Depressed Older Adults?

THURSDAY, FEBRUARY 7

Sandra Samuels, Human Development, Life Course and Aging, and Prof. Em. Alexander Macpherson, McMaster University. Ste. 106, 222 College St. Noon to 1:30 p.m. Human Development Life Course & Aging

Global Forces and Care in the Community: What Has Happened to Rehabilitation?

THURSDAY, FEBRUARY 7

Prof. Raisa Deber, health policy, management and evaluation; health and law policy series. Solarium, Faculty of Law, 84 Queen's Park. 12:15 to 2 p.m. Law

Public Perception and Measurement of Reproductive Risks: The Sydney Tar Ponds Experience.

THURSDAY, FEBRUARY 7

Prof. Susan Elliott, McMaster University. 113 Koffler Institute for Pharmacy Management. 4 p.m. Environmental Studies and Gage Occupational & Environmental Health Unit

Central Africans in Central Brazil, 1780-1835.

FRIDAY, FEBRUARY 8

Prof. Mary Karasch, Oakland University, Michigan. 208N Munk Centre for International Studies. 10:10 to noon. Brazil Seminar

Language and Justice.

FRIDAY, FEBRUARY 8

Prof. Daniel Weinstock, University of Quebec at Montreal, legal theory workshop series. Solarium, Faculty of Law, 84 Queen's Park. 1:10 to 2:45 p.m. Law

Competing Theories of Presidential-Executive Branch Relations.

FRIDAY, FEBRUARY 8

Prof. Bert Rockman, Ohio State University. 208N Munk Centre for International Studies. 2 to 4 p.m. Political Science and Study of the United States

Perception of Threat in ASEAN Following Terrorist Attacks in America.

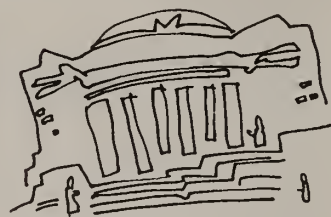
FRIDAY, FEBRUARY 8

Pheuphanh Ngaosyvathn, visiting scholar in ASEAN and international studies. 108N Munk Centre for International Studies. 3 to 5 p.m. Registration 416-946-8997 or asian.institute@utoronto.ca. Asian Institute, Dr. David Chu Program in Asia Pacific Studies and Joint Centre for Asia Pacific Studies

The Ethnography of Everyday Life (Early Modern Italy).

FRIDAY, FEBRUARY 8

Prof. David Gentilcore, McMaster University; Friday workshop series. 205 Northrop Frye Hall. 3:15 p.m. Reformation & Renaissance Studies and Victoria University



MEETINGS & CONFERENCES

Planning & Budget Committee

TUESDAY, JANUARY 29

Council Chamber, Simcoe Hall. 5 p.m.

Business and Investment Opportunities in an Expanding European Union: What the Applicant Countries Have to Offer.

FRIDAY, FEBRUARY 1

Vivian & David Campbell Conference Facility, Munk Centre for International Studies. 8 a.m. to 6:30 p.m. Information and registration (\$133.75): 416-946-8942; robert.austin@utoronto.ca. Joint Initiative in German & European Studies

The Politics of Applied Genetic Research: The German Debates in Comparative Perspective.

WEDNESDAY, FEBRUARY 6

Symposium with Andrea Fischer, Paul Weindling and Rozanne Mykitiuk. Vivian & David Campbell Conference Facility, Munk Centre for International Studies. 9:15 a.m. to 2:30 p.m. Registration: 416-946-8962; e.klein@utoronto.ca. Joint Initiative in German & European Studies

The European Union's Eastern Enlargement: Surveying the Social and Economic Divides.

EVENTS

**THURSDAY, FEBRUARY 7
TO SUNDAY, FEBRUARY 10**
Vivian & David Campbell Conference Facility, Munk Centre for International Studies. Joint Initiative in German & European Studies and York-U of T Institute of European Studies.



MUSIC

VICTORIA UNIVERSITY Concert in Memory of Professor Donn Kushner.

TUESDAY, JANUARY 29
Katharine Rapoport, viola; Scott St. John, violin; Shauna Rolston, cello; Peter Stoll, clarinet; Lydia Wong and William Aide, piano. Isabel Bader Theatre, 93 Charles St. W. 5 p.m.

FACULTY OF MUSIC EDWARD JOHNSON BUILDING Small Jazz Ensembles

**WEDNESDAY, JANUARY 30
AND FEBRUARY 6**
Favourite standards and student arrangements and compositions. Walter Hall. 8:30 p.m.

Thursdays at Noon.
THURSDAY, JANUARY 31
Canadian Music Competitions winner recital. Walter Hall. 12:10 p.m.

THURSDAY, FEBRUARY 7
Roiscottade Trio: Shauna Rolston, cello; Scott St. John, violin; William Aide, piano. Walter Hall. 12:10 p.m.

New Music Festival.
**FRIDAY TO SUNDAY,
FEBRUARY 8 TO FEBRUARY 10**
Concert one (Feb. 8), Victoria College Chapel, 8 p.m.; concert two, Walter Hall, 8 p.m.; concert three, Walter Hall, 3 p.m. Festival passes to all events \$20, single tickets \$10.

**Wind Symphony &
Concert Band.**
SATURDAY, FEBRUARY 9
Denise Grant and Jeffrey Reynolds, conductors. MacMillan Theatre. 8 p.m.

Vocal Student Performances.
TUESDAY, FEBRUARY 12
Featuring outstanding students of the vocal program. Walter Hall. 12:10 p.m.

**HART HOUSE
Anatolijus Shenderovas.**
SUNDAY, FEBRUARY 3
Music by Lithuanian composer Anatolijus Shenderovas; organized by the Centre for Russian & East European Studies. Music Room. 3 p.m. Tickets \$15 in advance or at CREES after the concert. Information: Janet Hyer, 416-946-8994.



PLAYS & READINGS

The Children's Hour.
**THURSDAY TO SATURDAY,
JANUARY 31 TO FEBRUARY 2;**
**TUESDAY TO SATURDAY,
FEBRUARY 5 TO FEBRUARY 9**
By Lillian Hellman; directed by Jane Carnwath. Theatre Erindale production.

Erindale Studio Theatre. Performances at 7:30 Tuesday to Thursday; 8 p.m. Friday and Saturday; matinee on final Saturday 2 p.m. Tickets \$7 Tuesday to Thursday and final matinee, \$12 Friday and Saturday. Box office: 905-569-4369.

The Music Man.

**THURSDAYS TO SATURDAYS,
JANUARY 31 TO FEBRUARY 9**
By Meredith Willson; presented by UC Follies. Hart House Theatre. Performances at 8 p.m., Saturday matinee 2 p.m. Tickets \$15, students and seniors \$10. Box office: 416-978-8668.

Flavia Cosma.

MONDAY, FEBRUARY 11
Flavia Cosma reads from her newly published collection of poetry, *Wormwood Wine*, with George Elliott Clarke. 108N Munk Centre for International Studies. 7 to 9 p.m. Russian & East European Studies



FILMS

Short Film Festival.
THURSDAY, JANUARY 31
Hart House film board presents screening of short films by Hart House board members. Music Room, Hart House. 7 p.m.



EXHIBITIONS

**FACULTY OF
ARCHITECTURE,
LANDSCAPE & DESIGN**
**Eric Arthur:
Practical Visions.**
TO JANUARY 31
Exhibition focusing on the life's work of the influential architect, educator, writer, activist and preservationist. Eric Arthur Gallery, 230 College St. Hours: Monday to Friday, 9 a.m. to 5 p.m.; Saturday, noon to 5 p.m.

**UNIVERSITY OF TORONTO
ART CENTRE
Chasing Napoleon.**
TO MARCH 23
Tony Scherman, paintings and mixed-media works-on-paper. Hours: Tuesday to Friday, noon to 5 p.m.; Saturday, noon to 4 p.m.

TO MARCH 31
**Selection of Recent Gifts of
Contemporary Art to the
University of Toronto Art
Collection.**
An exhibition of some of the large-scale works donated to the collection.

**Abstracting the Landscape:
Selected Works of Art From
the Collections of University
College and the University of
Toronto.**
Nineteen works by members of the Group of Seven and other more contemporary artists. Hours: Tuesday to Friday, noon to 5 p.m.; Saturday, noon to 4 p.m.



MISCELLANY

Childproofing Your Home.

WEDNESDAY, JANUARY 30
Workshop with experts from Kiddie Proofers and the Children's Safety Association of Canada. Health Services Seminar Room, Koffler Student Services Centre. Noon to 1:30 p.m. Information and registration: 416-978-0951; familycare@utoronto.ca. Family Care Office

Fathers' Group.

FRIDAY, FEBRUARY 1
Meet other fathers at U of T to talk, discuss issues and find out about resources. Student Affairs Conference Room, Koffler Student Services Centre. 11 a.m. Information and registration: 416-978-0951; familycare@utoronto.ca. Family Care Office

Positioning Yourself for a Career in Academia: A Workshop for Women Graduate Students.

FRIDAY, FEBRUARY 1
Workshops on academic work and life:

how to get a post-doc, starting an academic career, impressing your search committee, pros and cons of part-time appointments, negotiating your first employment contract and more. Athletic Centre, Benson Building. Noon to 5 p.m. Information: www.careers.utoronto.ca (what's new section). Graduate Students' Union, Vice-President, Research and International Relations, Family Care Office, Career Centre, Physical Health & Education, Vice-Provost, Students, and School of Graduate Studies

Building Your Child's Self-Esteem.

FRIDAY, FEBRUARY 1
Workshop for the U of T community and their families. Room 123, Woodsworth College. Noon to 5 p.m. Information and registration: 416-978-0951; familycare@utoronto.ca. Family Care Office

Financial Survival for Student Families.

THURSDAY, FEBRUARY 7
Information session on topics including OSAP for student families, bursaries and grants, graduate student funding, tax credits and education, childcare subsidies, free community services health benefits and plans, family housing. Wetmore Hall, New College. Information and registration: 416-978-0951; familycare@utoronto.ca. Family Care Office

Family Day at the Athletic Centre.

SATURDAY, FEBRUARY 9
A full day of free fun and recreation. 1:30 p.m. Tickets and information: 416-978-0951; familycare@utoronto.ca. Family Care Office

Choosing Child Care That Works for Your Family.

TUESDAY, FEBRUARY 12
Session covers types of care available, costs, evaluation of caregivers and other information parents need to make the best decision for their children. Family Care Office, Koffler Student Services Centre. Noon to 1:30 p.m. Information and registration: 416-978-0951; familycare@utoronto.ca. Family Care Office



DEADLINES

Please note that information for Events listings must be received in writing at The Bulletin offices, 21 King's College Circle, by the following times:

Issue of February 11, for events taking place Feb. 11 to 25: **MONDAY, JANUARY 28.**

COMMITTEES

The Bulletin regularly publishes the terms of reference and membership of committees. The deadline for submissions is Monday, two weeks prior to publication.

TASK FORCE ON CLINICAL FACULTY
Provost Adel Sedra has established a task force on clinical faculty that will examine issues related to clinical faculty at the University of Toronto in order to make recommendations on how the relationships can be optimized. The governance arrangements between the university, the hospitals and the clinical faculty have remained essentially unchanged for a number of decades. Yet the working environment for clinical faculty has changed considerably and increased in complexity. As a result significant challenges have arisen in our relationships. The task force intends to consult closely with relevant stakeholders, including, as necessary, a broad-based "clinical constituent assembly" brought together to represent the interests of clinical faculty.

Terms of Reference:
In carrying out its mandate, the task force will:
1. Develop a draft set of policies to govern appointments of clinical faculty.
2. Obtain the views of clinical faculty as to how their relationship with the university should be governed.

3. Develop principles to guide the harmonization of practice plan and hospital appeal and grievance processes for clinical faculty, including provision as appropriate for the protection of academic freedom.
4. Make recommendations regarding revisions to the affiliation agreements to support the implementation of any agreed principles and policies.
5. Consider other matters relevant to the relationship between clinical faculty and the university.

Membership:
Professors Vivek Goel, vice-provost (faculty) and Department of Health Policy, Management and Evaluation (co-chair); David Naylor, vice-provost (relations with health care institutions and dean, Faculty of Medicine (co-chair); Brenda Andrews, chair, medical genetics and microbiology; Philip Berger, family and community medicine and chief, family and community medicine, St. Michael's Hospital;

Catherine Birt, ophthalmology and vision science and ophthalmology, Sunnybrook and Women's College Health Sciences Centre; Jack Carr, economics and chair, Academic Board; Allan Detsky, health policy, management and evaluation and physician-in-chief, Mount Sinai Hospital; Bernard Dickens, Faculty of Law and Faculty of Medicine; Patricia Houston, anesthesia and anesthesiologist-in-chief, St. Michael's Hospital; Jeffrey Lozon, health policy, management and evaluation and president and CEO, St. Michael's Hospital; Robert Magissano, surgery and head, Division of Vascular Surgery, Sunnybrook and Women's College Health Sciences Centre; Peter Singer, Department of Medicine, Sun Life Financial Chair in Bioethics, director of the Joint Centre for Bioethics and staff physician, University Health Network; and John Wedge, R.S. McLaughlin Professor and Chair, Department of Surgery and surgeon-in-chief, Hospital for Sick Children; and Carol Robb, assistant vice-provost (health sciences) (secretary).

Submissions related to the terms of reference of the task force are

sought from all interested members of the university community and should be sent to Carol Robb, Office of the Vice-President & Provost, Room 221, Simcoe Hall, 416-978-6662, carol.robb@utoronto.ca, by January 31.

CENTRE FOR SOUTH ASIAN STUDIES

A review committee has been established to review the Centre for South Asian Studies. Members are: Professor Bernard Katz, associate dean, Division I, School of Graduate Studies (chair); Professor Joseph Elder, Centre for South Asia, University of Wisconsin at Madison; Professor Eugene Irschick, Centre for South Asia Studies, University of California at Berkeley; and Edith Fraser, School of Graduate Studies (secretary).

The committee would be pleased to receive input from interested persons until February 4. Submissions should be sent to Edith Fraser, School of Graduate Studies, 65 St. George St; fax, 416-971-3211; e-mail, edith.fraser@utoronto.ca.

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RIP, MIX AND BURN

An ever smaller group of players is gaining increasing control over culture

BY LAURENCE LESSIG

AT A RECENT CONFERENCE IN DURHAM, NORTH CAROLINA, YALE PROFESSOR JED RUBENFELD TOLD THE STORY OF A RECENT STRUGGLE TO SPEAK THAT HE PLAYED A LARGE ROLE IN WINNING. THE CONTEXT IS A NOVEL PUBLISHED IN 1936 BY MARGARET MITCHELL. *Gone with the Wind* — which has sold more copies than any book save the Bible — tells a story about the South before and after the Civil War.

Rubinfeld's account, however, was of another American who had a different story to tell — Alice Randall, author of *The Wind Done Gone*. Randall's novel retold a much less heroic account of Mitchell's story from the perspective of the African slaves. Mitchell's lawyers argued that Randall's story was a sequel and as the copyright to Mitchell's book had not yet expired, Randall needed permission from the Mitchell estate. That permission was not granted.

Had the copyright expired on schedule in 1993, Randall would have been free to write her book. But Congress has turned against this idea that copyrights should expire. On its present schedule, Mitchell's work won't be freed to the public domain until 2032, almost 100 years after Mitchell set the battle to words. And when the lawyers learned that copies of Randall's book were already in print, they asked the federal court in Atlanta to order Randall's book burned.

Could it really be, Rubinfeld asked, that in the 21st century, a United States federal court has the power to order books burned? Could a story become the property of an individual's estate, so firmly and absolutely that a counter story must be destroyed? Could the judicial power really be so expressed, consistent with the commands of the constitutional right of free speech?

We live in a funny time. Two great trends — one legal, the other technological — are happening simultaneously and pushing in opposite directions. The legal trend is towards more protectionism; the technological trend is towards decreasing costs of creativity. The technological trend could give the power to create to an extraordinary range of citizens, meaning more is possible with less. The legal trend means less is allowed than before as the right to create is held by fewer people. Technology makes stealing easier; the law increases the punishment for stealing. An arms race spins out of control.

But what's striking about this technological revolution is the in-your-face-ness of its simple yet radical claim: "Rip, mix, burn. After all, it is your music." As if the law really does permit you to rip — take from others; mix — add to it without permission; and burn — publish it for others to hear. As if it really were "your music."

There is, however, a second way in which this time is funny, a way that parallels this taffy pull of technology and law: as the resolve of many to rip, mix and burn increases, the belief that this freedom might be justified, or right, declines. Indeed, perhaps the most troubling feature of this trend is not just that this behaviour occurs but also that it is increasingly understood simply to be wrong.

There's a movement among technology sorts called the free software movement. The idea is that with the program should come the source — the actual code written by programmers that makes the program run. This code should be kept open, or free, with the program. Anyone using it should have a right to tinker with the code. As the philosopher of this movement puts it, this is "free" as in "free speech" not as in "free beer."

The free software movement demands one be allowed to build and transform code, just as one can with other people's speech. Free software means the right to rip, mix and burn software; it doesn't mean that makers of software can't sell what they make. But the problem with this justification is that it is blind to the war about just how free speech is, or isn't.

How free was the speech that Alice Randall wanted to exploit? Not free at all. The power the Mitchell estate exercised over Randall's publisher is not considered a violation of free speech. Free speech is implicated when the government acts to censor. Copyright, however, is not government censorship.

The mistake here is just bad, or forgotten, history. The analog the free software foundation should use is not "free as in free speech." Their exemplar instead should be "free as in free labour." Free as in the free labour movement. The wrong that Alice Randall suffered arises from the power the state has vested in private hands through property and contract. The distinct tradition for resisting that wrong is the same tradition that resists slavery. That tradition was the free labour movement. For here's a fact most of us don't remember: for most of the history of labour, labour was not free. "Unfree labour" was the norm in both



MAREK CIEKIEWICZ

England and the early American colonies. Only when it became technologically and economically possible did free labour as an ideal become real; and only then did it for a brief moment become a reality.

But what did this "free labour" mean? First, and obviously, it didn't mean slavery. It didn't mean free as in free beer; free labour meant free as in free from certain forms of control. But second, these forms of control were not just state imposed. The interesting feature about free labour for us is that the restrictions that this movement attacked were often restrictions that the labourer had voluntarily imposed on himself. The free labour movement attacked state enforcement of certain voluntary contracts — or at a minimum, enforcement through certain remedies of certain voluntary contracts. The free labourer was the artisan who owned his means of production and exercised dominion over it. The artisan helped make a free society possible.

This vision could only live when technology made it possible. Only when it seemed viable could politicians and judges — as opposed to poets and utopians — advance it. And here then was the source of free labour's demise. For just as quickly as the Civil War made it seem possible, the industrial revolution took this possibility away. The technology of production shifted. As capital was concentrated and employeeship became the norm in the United States, the party of free labour split into two very different movements: the labour movement and the free market movement. Both tried to speak for the ideal of free labour; but conditions had rendered their messages very distinct. In 1870, close to 70 per cent of workers were part of the wage labour system. Artisans were as quaint and rare as they seem to us today.

Now you could go on with the romance of this story and become Chairman Mao but that's not my aim. Rather than red revolution, I mine the history of free labour to suggest that it does help us model free culture. Not about artists as slaves, not about artists as wage labourers, but about a legal regime and technical infrastructure that would enable artists to

function as artisans again. About a balance between protection and access, about limitations on the control imposed on the contract and property, about a dignity to the creative process that would set culture free in just the sense that the free labour movement set labour free. Not free in the sense of free beer, but free in the sense of empowerment to rip, mix and burn culture, within the reasonable constraints of a balanced system of copyright.

We should be working to this end of freedom now. When the English passed the Statute of Anne in 1710, the works of Shakespeare were set to enter the public domain. Culture was compensated but at some point set free from the controls of the publishers. And once that limited exclusive right ended, others could take and build on this cre-

ativity, as Jefferson said, "for the moral and mutual instruction of man, and improvement of his condition."

We have lost this tradition of balance. As the scope of the copyright has expanded to include exclusive rights over both copies and derivative works and as the duration of these rights has grown from a meager 14 years as an initial copyright term to the current life of the author plus 70 years, the consequence of these changes is that at no point in our history has more of our culture been held within the control of so few private actors — the record labels, the film studios, publishers — who dictate how artists can rip, mix or burn our culture. An ever smaller set of actors with an ever growing reach of control over how our culture grows.

We are, I said, a house divided.

Lawrence Lessig is a professor of law at the Stanford Law School. This essay is a modified version of the 2002 Grafstein Lecture in Communications Law and Policy he recently gave at U of T, entitled *Free Culture*.

TECHNOLOGY MAKES

STEALING EASIER;

THE LAW INCREASES

THE PUNISHMENT FOR STEALING